UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREENBERG TRAURIG
77 WEST WACKER DRIVE
SUITE 2500
CHICAGO, IL 60601-1732

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of :
Mauro Dresti et al :
Application No. 09/967,069 : DECISION GRANTING PETITION
Filed: September 27, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 81230.66US1 :

This is a decision on the petition, filed August 2, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 12, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 22, 2005 accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 2614 for examination in due course.

Wan Laymon

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 17 2003

OFFICE OF PETITIONS

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

In re Application of
Venkat Konda
Application No. 09/967,106
Filed: September 27, 2001
Attorney Docket No. M-12222 US
Title: STRICTLY NONBLOCKING
MULTICAST MULTI-STAGE NETWORKS

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on November 4, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on September 6, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of

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

an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of March 25, 2004 accompanies this decision on petition.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

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

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

cc: Venkat Konda
Teak Networks, Inc.
6278 Grand Oak Way
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
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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of
Uhlik et al.
Application No. 09/967,152
Filed: September 28, 2001
Title: Wireless Network Infrastructure

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 7, 2006.

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

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 17, 2005. An amendment was filed on September 19, 2005. In response to the amendment a Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on September 26, 2005 which set an extendable reply period of one month. A reply to the Notice of Non-Compliant Amendment was not received. This application became abandoned on October 27,2005. A Notice of Abandonment was mailed on August 2, 2006.

Petitioner asserts that the Notice of Non-Compliant Amendment mailed September 26, 2005 was never received. Petitioner states a search of the file jacket and docket records confirms the Office Communication was not received. In support of petitioner's contention, a copy of the docket records has been provided.

This application is being forwarded to Art Unit 2614 for re-mailing of the Notice of Non-Compliant Amendment. The one month time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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OFFICE OF PETITIONS

In re Application of	:	
Jeff Fluhr, et al.	:	
Application No. 09/967,171	:	DECISION ON PETITION
Filed: September 27, 2001	:	TO WITHDRAW
Attorney Docket No. 353190-991100 (fka250004-991100)	:	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 27, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to DLA Piper US, LLP has been revoked by the assignee of the patent application on October 1, 2007. 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 undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KACVINSKY, LLC
ATTN: ROBERT B. RACUNAS, ESQ.
4500 BROOKTREE ROAD
SUITE 102
WEXFORD, PA 15090

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

Alexander M. Gerasimow
Allen-Bradley Company, LLC
1201 South Second Street
Milwaukee, WI 53204-2496

Mail Date: 04/21/2010

Applicant	: Dallas J. Bergh	: DECISION ON REQUEST FOR
Patent Number	: 7576958	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/967,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 09/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6527771	2003-03-04	09967185	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.

UNITED STATES 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. 6527771
Issue Date: March 4,2003
Application No. 09967185
Filed: September 28,2001
Attorney Docket No. 14643 (ETH-1557)

:
: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.

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)
6592604	2003-07-15	09967200	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

	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	/J. Gary Mohr/	Date (YYYY-MM-DD)	2008-10-18
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.

UNITED STATES 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. 6592604
Issue Date: July 15,2003
Application No. 09967200
Filed: September 28,2001
Attorney Docket No. 14830 (ETH-1539)

:
: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.

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)
6656176	2003-12-02	09967201	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)	2008-10-14
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.

UNITED STATES 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. 6656176
Issue Date: December 2,2003
Application No. 09967201
Filed: September 28,2001
Attorney Docket No. 14832 (ETH-1538)

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

This is a decision on the electronic petition, filed October 14,2008 ,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 14,2008 . 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/967,218	10/18/01	JOHN DAVID TUCKER, ET AL	KCC-15,529

Title: **TEXTILE FIBERS MADE FROM STRENGTHENED POLYPROPYLENE**

Art Unit	Paper Number

Correspondence Address:
MELANIE I. RAUCH
PAULEY PETERSON KINNE & FEJER
2800 WEST HIGGINS ROAD; SUITE 365
HOFFMAN ESTATES, ILLINOIS 60195

[illegible] 2001

[illegible]

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 527,718
Grant Date: 19-Oct-01

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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P.O. Box 1450
Alexandria, VA 22313-1450
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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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APR 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	DECISION ON APPLICATION
Application No. 09/967,223	:	FOR
Filed: September 28, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. JB01337K	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2006. Petitioners request correction of the patent term adjustment from zero (0) days to add at least one hundred thirty seven (137) days solely on the basis of the Office taking in excess of three years to issue the patent.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date[1]. 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).

Petitioners 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. Petitioners may seek such consideration without payment of an additional fee. However, as to all other bases

[1] Citing each adjustment and reduction of record, petitioners otherwise agree with the determination of patent term adjustment of 0 days indicated in the Notice of Allowance.

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.

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

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

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

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUANE, MORRIS & HECKSCHER LLP
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

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JUN 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Thomas Gilbert et al :
Application No. 09/967,224 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. D0932-00252 :

This is a decision on the petition, filed June 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 May 3, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1722 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : June 18, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Thomas Gilbert et al
Application No. :09/967,224
Filed :September 28, 2001

The above-identified application has been assigned Patent No. 6,752,610 and an issue date of June 22, 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 June 22, 2004:

"All reference to Patent No. 6,752,610 to Thomas Gilbert et al of Michigan for APPARATUS FOR CONTINUOUS FORMING SHAPED POLYMERIC ARTICLES in the Official Gazette of June 22, 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: 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

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DUANE, MORRIS & HECKSCHER LLP
One Liberty Place
Philadelphia PA 19103-7396

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JAN 28 2008

OFFICE OF PETITIONS

In re Patent No. 7,108,495 :
Issued: September 19, 2006 : DECISION ON APPLICATION
Application No. 09/967,224 : FOR PATENT TERM ADJUSTMENT
Filed: September 28, 2001 :
Atty. Dkt. No.: D0932-00252 :

This is a decision on the "APPLICATION FOR A REVISION OF THE PATENT TERM ADJUSMENT," filed November 6, 2006. This matter is being properly treated as an application for patent term adjustment under 37 CFR 1.705(d).

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

The above-identified application matured into U.S. Patent No. 7,108,195 on September 19, 2006. The instant request for reconsideration was timely filed November 6, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 46 days. Patentees request that the adjustment be corrected to reflect an adjustment of 526 days.

A review of the calculation of adjustment reveals that at the time of issuance, an overall adjustment of 644 days can be attributed to the Office and an overall reduction of 77 days can be attributed to patentees.

An adjustment of 77 days under 37 CFR 1.702(a)(1) was accorded in connection with the mailing of the non-final Office action on February 13, 2003.

A further adjustment of 567 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(4). The adjustment began March 2, 2005, the day after the date that is four months after the date the issue fee payment was received, and ended September 19, 2006, the date the patent issued.

The adjustment totaling 644 days is reduced 31 days in accordance with 37 CFR 1.704(b) in connection with the reply filed June 13, 2003. The reduction began May 14, 2003, the day

after the date a reply was due, and ended June 13, 2003, the date a reply was filed.

The adjustment is further reduced one day in accordance with 37 CFR 1.704(b) in connection with the reply filed May 3, 2004. The reduction began May 3, 2004, the day after the date that a reply was due, and ended May 3, 2004, the date a reply was filed.

The adjustment is further reduced 43 days in accordance with 37 CFR 1.704(c)(10) in connection with the RCE submitted June 18, 2004. The reduction began June 18, 2004, the date the RCE was filed, and ended July 30, 2004, the date a reply thereto was mailed.

The adjustment is further reduced two days in accordance with 37 CFR 1.704(b) in connection with the reply filed November 1, 2004. The reduction began October 31, 2004, the day after the date a reply was due, and ended November 1, 2004, the date a reply was filed.

In view thereof, at the time of issuance, the application was entitled to an adjustment of 567 days (adjustments totaling 644 days less reductions totaling 77 days).

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 USC 154(b) by 567 days.

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

Kery A. Fries

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,108,495 B2
DATED	:	September 19, 2006
INVENTOR(S)	:	Gilbert, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 46 days

Delete the phrase "by 46 days" and insert – by 567 days--

PALM INTRANET

Day : Friday
Date: 1/4/2008
Time: 11:37:18

PTA Calculations for Application: 09/967224			
Application Filing Date:	09/28/2001	PTO Delay (PTO):	77
Issue Date of Patent:	09/19/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	31
Post-Issue Petitions:	0	Total PTA (days):	557
PTO Delay Adjustment:	511		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
72	01/04/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	511		
67	09/19/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
66	08/18/2006	RECEIPT INTO PUBS			
65	08/07/2006	WORKFLOW - FILE SENT TO CONTRACTOR			
64	05/09/2006	EXPORT TO INITIAL DATA CAPTURE			
63	11/01/2004	ISSUE FEE PAYMENT RECEIVED			
62	11/10/2004	REVERSE ISSUE FEE			
61	11/10/2004	ISSUE FEE PAYMENT RECEIVED			
59	07/30/2004	MAIL NOTICE OF ALLOWANCE			
58	09/28/2001	REFERENCE CAPTURE ON IDS			
57	07/28/2004	ISSUE REVISION COMPLETED			
56	07/28/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	07/26/2004	NOTICE OF ALLOWABILITY			
54	06/18/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	06/30/2004	DATE FORWARDED TO EXAMINER			
52	06/18/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
51	06/30/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
48	06/18/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	06/18/2004	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE - WITH ASSIGNED PATENT NO.			
46	06/18/2004	WITHDRAWAL PATENT CASE FROM ISSUE			
43	06/18/2004	PETITION ENTERED			

42	06/03/2004	ISSUE NOTIFICATION MAILED			
41	06/22/2004	PATENT ISSUE DATE USED IN PTA CALCULATION			
40	05/21/2004	RECEIPT INTO PUBS			
39	09/28/2001	WORKFLOW - DRAWINGS FINISHED			
38	05/03/2004	ISSUE FEE PAYMENT VERIFIED			
37	05/18/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
36	09/28/2001	WORKFLOW - DRAWINGS FINISHED			
35	05/03/2004	ISSUE FEE PAYMENT VERIFIED			
34	05/03/2004	MISCELLANEOUS INCOMING LETTER			
33	05/03/2004	ISSUE FEE PAYMENT RECEIVED			
32	04/12/2004	RECEIPT INTO PUBS			
31	02/24/2004	RECEIPT INTO PUBS			
30	02/23/2004	WORKFLOW - FILE SENT TO CONTRACTOR			
29	02/02/2004	MAIL NOTICE OF ALLOWANCE			
28	01/28/2004	ISSUE REVISION COMPLETED			
27	01/28/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	01/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
25	01/26/2004	NOTICE OF ALLOWABILITY			
24	11/25/2003	IFW AMENDED CASE PROCESSING COMPLETE			
23	11/25/2003	CLAIMS PTO			
22	11/21/2003	DATE FORWARDED TO EXAMINER			
21	11/12/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)			
20	11/21/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
19	11/12/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
18	11/04/2003	MAIL ADVISORY ACTION (PTOL - 303)			
17	10/31/2003	ADVISORY ACTION (PTOL-303)			
16	10/27/2003	DATE FORWARDED TO EXAMINER			
15	10/14/2003	AMENDMENT AFTER FINAL REJECTION			
14	08/12/2003	MAIL FINAL REJECTION (PTOL - 326)			
13	08/07/2003	FINAL REJECTION			
12	06/23/2003	DATE FORWARDED TO EXAMINER			
11	06/13/2003	RESPONSE AFTER NON-FINAL ACTION		31	9
10	06/13/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			

9	02/13/2003	MAIL NON-FINAL REJECTION	77		-1
8	02/10/2003	NON-FINAL REJECTION			
7	08/06/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	09/28/2001	PRELIMINARY AMENDMENT			
5	09/28/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	10/30/2001	APPLICATION DISPATCHED FROM OIPE			
3	10/29/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/12/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/28/2001	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/07/09

TO SPE OF : ART UNIT 1643

SUBJECT : Request for Certificate of Correction for Appl. No.: 09967237 Patent No.: 7115715 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

LARRY R. HELMS, PH.D.
SUPERVISORY PATENT EXAMINER

SPE 1643 **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.9

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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JUL 0 3 2002

OFFICE OF PETITIONS

In re Application of
Gilbert et al.
Application No. 09/967,241
Filed: August 28, 2001
Attorney Docket No. 2001P15581 US

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c) filed on June 4, 2002, requesting that the above-identified application be accorded a filing date of September 28, 2001, rather than the presently accorded filing date of August 28, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 28, 2001. In support, on June 4, 2002, petitioner supplied a copy of Express Mail receipt No. EL823499303US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file) showing a United States Postal Service official postmark dated September 28, 2001.

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

The application is being forwarded to Office of Initial Patent Examination for further processing and issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly 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
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Paper No. 8

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Bertram Geck, et al. :
Application No. 09/967,242 : DECISION GRANTING
Filed: September 28, 2002 : PETITION
Attorney Docket No. 2001P18013US :

This is a decision on the petition filed May 24, 2002, requesting that the above-identified application be accorded a filing date of September 28, 2002, rather than the presently accorded date of August 28, 2002. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on September 28, 2002. In support, the petition is accompanied by a copy of Express Mail receipt No. EL823499303US, showing a "date-in" of September 28, 2002. The same Express Mail receipt number was referred to in the original application papers found in the file.

The Office considers the date the paper or fee shown as deposited as "Express Mail" to be the "date-in" on the Express Mail label. See MPEP 513. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on September 28, 2002.

A corrected filing receipt showing the filing date of the instant application accompanies the decision.

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

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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MAR 3 1 2008

In re Application of :

BARTELS, Carlton et al. :
Application No. 09/967,272 : DECISION ON PETITION
Filed: September 28, 2001 : TO WITHDRAW
Attorney Docket No. **CF-55** : 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 S. Rogers on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JANE BARTELS**
80 BAY STREET LANDING
APARTMENT 8G
STATEN ISLAND, NEW YORK 10301

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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NOV 24 2003

OFFICE OF PETITIONS

Brown, Raysman, Millstein, Felder & Steiner, LLP
Suite 711
1800 Century Park East
Los Angeles, CA 90067

In re Application of
James Morrow, et. al.
Application No. 09/967,283
Filed: September 28, 2001
Attorney Docket No. 10407/521

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 12, 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 June 12, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and an amendment.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center 3700, for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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

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)
6,775,356	2004-08-10	09/967,291	2001-09-27	B4851.0008

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael J. Scheer/	Date (YYYY-MM-DD)	2009-11-10
Name	Michael J. Scheer	Registration Number	34425

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6775356
Issue Date: August 10,2004
Application No. 09967291
Filed: September 27,2001
Attorney Docket No. B4851.0008

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

This is a decision on the electronic petition, filed November 10,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 16

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

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Bruce R. Musolf et al
Application No. 09/967,316
Filed: September 28, 2001
Attorney Docket No. 2316.1605US01

This is a decision on the petition, filed December 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 17, 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 2839 for processing of the request for continued examination under 37 CFR 1.114.

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

[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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MUSERLIAN LUCAS AND MERCANTI LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Casper R. Beesley :
Application No. 09/967,357 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. AGL-1 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed March 9, 2004 (and resubmitted on October 6, 2004), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/236,497, filed September 29, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Along with the instant petition under 37 CFR § 1.76(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to the above-noted, prior-filed provisional application.

The instant pending nonprovisional application was filed on September 28, 2001, and was pending at the time of filing of the instant petition. While a reference to the above-noted, prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the declaration filed with the above-identified application on September 28, 2001.

The current procedure where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii).

However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the above-noted, prior-filed provisional application in the declaration filed with the application, as shown by its inclusion on the filing receipt mailed on November 7, 2001.

In view of the above, the $1,330 surcharge fee submitted has been refunded to petitioner's credit card.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to the Examiner of Technology Center AU 2878 for appropriate action, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the above-noted, prior-filed provisional application.

Frances Hicks

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

[1] *Note* MPEP 201.11 (III)(D) , pages 200-59 and 200-60 (Rev. 1. Feb. 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/967,406	09/27/2001	2171	1630	010292	8	40	10

CONFIRMATION NO. 5625

FILING RECEIPT

OC000000006976875

Sarah L. Godsey
Intellectual Property Adminstration
QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 10/31/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. 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)

Gary G. McGrath, Carlsbad, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 10/25/2001

Projected Publication Date: 03/27/2003

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for providing a unified data exchange and storage format

Preliminary Class

707

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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Paper No. 14

Foley Hoag, LLP
Patent Group, World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Ian Humphrey, et al. :
Application No. 09/967,411 : DECISION PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. FIM-002.01 :

This is a decision on the petition under 37 CFR 1.137(f),[1] filed by facsimile transmission on May 20, 2003 and supplemented on May 21, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified 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

[1] 37 CFR 1.137(b) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 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 treaty that requires publication of applications eighteen months after filing.

received prior to the filing date of a corresponding application in a foreign country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, no petition fee has been assessed to petitioner's deposit account.

This application is being forwarded to Technology Center 3600, Art Unit 3662, to await a reply to the non-final office action mailed April 3, 2003. Failure to timely reply will result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Frances Hicks at (703)305-8680.

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

Frances Hicks
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

Leah Sherry, Esq.
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

MAILED

JUL 17 2003

Technology Center 2100

In re Application of: Dale W. Hopkins, et al.)
Application No. 09/967,425)
Filed: September 27, 2001) **DECISION ON REQUEST FOR**
For: METHOD FOR SELECTING) **WITHDRAWAL AS ATTORNEY**
OPTIMAL NUMBER OF PRIME)
FACTORS OF A MODULUS FOR)
USE IN A CRYPTOGRAPHIC)
SYSTEM)

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

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

The request is **GRANTED**.

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

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

cc: Hewlett-Packard Company
Intellectual Property Administration
Attn: Bill Streeter
P.O. Box 272400
Fort Collins, CO 80527-2400

PTO/SB/66 (03-09)
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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)
6898219	2005-05-24	09967433	2001-09-28	O013 P00829-US3

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	/stephen j. holmes/	Date (YYYY-MM-DD)	2010-05-26
Name	Stephen Holmes	Registration Number	34621

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6898219
Issue Date: May 24,2005
Application No. 09967433
Filed: September 28,2001
Attorney Docket No. 47051/SAH/C715

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

This is a decision on the electronic petition, filed May 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE E. LYCKE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

COPY MAILED

AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of
Rabbers, et al.
Application No. 09/967,439
Filed: September 28, 2001
Attorney Docket No. 5306.P045

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 2, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

There is an outstanding Office action that was mailed on April 17, 2006 that requires a response by the applicant.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Ascoclese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAWRENCE E. LYCKE
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Rabbers et al.	:	
Application No. 09/967,439	:	DECISION GRANTING PETITION
Filed: September 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 005306.P045	:	

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant 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 February 25, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). 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 April 26, 2007, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2142 for examination in due course.

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

Liana Walsh
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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/967,439	09/28/2001	David L. Rabbers	005306.P045

CONFIRMATION NO. 6336

Lawrence E. Lycke
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 01/18/2007

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 04/26/2007.

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. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[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".

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
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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/967,439	09/28/2001	David L. Rabbers	005306.P045

CONFIRMATION NO. 6336

Lawrence E. Lycke
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 01/18/2007

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 04/26/2007.

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. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[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".

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AUG 17 2007

OFFICE OF PETITIONS

PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
370 W. TRIMBLE ROAD MS 91/MG
SAN JOSE, CA 95131

In re Application of :
Jeroen Heuvelman :
Application No. 09/967,455 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. US018165 :

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

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on March 27, 2007.

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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2151 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Thorne & Halajian, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

MAIL

DEC 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

Application No. 09/967,490

Filed: 9/28/01

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed 11/5/03

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is* ***granted.*** All future correspondence will be directed to the below address until such a time as a request for change of address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: MAXUM INTEGRATED PRODUCTS, INC
120 San Gabriel Drive
Sunnyvale, CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 18 2006

OFFICE OF PETITIONS

Levine Bagade Han LLP
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

In re Application of :

Ravi Shankar et al. :
Application No. 09/967,493 : DECISION ON PETITION
Filed: September 27, 2001 : TO WITHDRAW
Attorney Docket No. PORTNZ01000 : 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 5, 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 David A. Levine on behalf of all attorneys of record who are associated with Customer No. 40518.

All attorneys/agents associated with the Customer No. 40518 have been withdrawn.

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

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

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ravi Shankar**
7895 Rainbow Drive
Cupertino, CA 95014

cc: **William Shatter, Esq.**
Townsend and Townsend and Crew LLP
279 Lytton Avenue
Palo Alto, CA 94301

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

JAMES R. RIEGEL
801 FOX LANE
SAN JOSE CA 95131

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MAR 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David F. Moore et al :
Application No. 09/967,494 :
Filed: September 27, 2001 :
Attorney Docket No. IMM118B :

This is a decision on the petition, filed March 22, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 5, 2001 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on March 22, 2004, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Philip W. Marsh appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Marsh desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Marsh, the petitioner herein. Until otherwise

---

[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).

instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 2673 for processing of the request for continued examination under 37 CFR 1.114 filed March 22, 2004.

Karen Creasy

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

cc:
COOLEY GODWARD LLP
ATTN: PATENT GROUP
ONE FREEDOM SQUARE, RESTON TOWN CTR.
11951 FREEDOM DRIVE
RESTON, VA 20190-5656

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Martin Vorbach, et al. :
Application No. 09/967,497 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 2885/55 :

This is a decision on the petition under 37 CFR 1.182, filed December 27, 2004, to change the order of inventorship in the above-identified application.

The petition is **GRANTED.**

The order of the names of the inventors will be changed as follows:

1. Martin Vorbach

2. Frank May

3. Armin Nuckel

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to Technology Center 2100, Art Unit 2114 for further processing.

Marianne Jenkins
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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Martin Vorbach, et al. :
Application No. 09/967,497 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 2885/55 :

This is a decision on the petition under 37 CFR 1.182, filed December 27, 2004, to change the order of inventorship in the above-identified application.

The petition is **GRANTED.**

The order of the names of the inventors will be changed as follows:

1. Martin Vorbach

2. Frank May

3. Armin Nuckel

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to Technology Center 2100, Art Unit 2114 for further processing.

Marianne Jenkins
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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Martin Vorbach, et al. :
Application No. 09/967,498 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 2885/54 :

This is a decision on the petition under 37 CFR 1.182, filed December 27, 2004, to change the order of inventorship in the above-identified application.

The petition is **GRANTED.**

The order of the names of the inventors will be changed as follows:

1. Martin Vorbach
2. Frank May
3. Armin Nuckel
4. Markus Weinhardt
5. Joao Cardoso

Office records have been corrected to reflect the desired order of inventorship. A corrected filing receipt accompanies this decision.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to Technology Center 2100, Art Unit 2191 for further processing.

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK A LITMAN & ASSOCIATES PA
YORK BUSINESS CENTER
SUITE 205
3209 W. 76TH STREET
EDINA, MN 55402

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MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Attila Grauzer et al :
Application No. 09/967,500 :
Filed: September 28, 2001 :
Attorney Docket No. PA0618.ap.US :

LETTER

This is in response to the paper filed February 26, 2002 under 37 CFR 1.27(c) seeking status as a small entity.

The Verified Statement Claiming Small Entity Status of February 26, 2002 has been made of record and small entity status has been accorded.

The application file is being forwarded to Technology Center AU 3713.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

BANIAK PINE & GANNON
SUITE 1200
150 NORTH WACKER DRIVE
CHICAGO, IL 60606

COPY MAILED

AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Duncan F. Brown et al :
Application No. 09/967,505 : NOTICE
Filed: September 28, 2001 :
Attorney Docket No. 2100/21 :

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 3714.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

ANDERSON & MORISHITA LLC
2725 S JONES BOULEVARD
SUITE 102
LAS VEGAS NV 89146

COPY MAILED

DEC 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Michael O. Parham :
Application No. 09/967,519 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. KONAMI01-09 :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed February 13, 2004 (Certificate of Mailing dated February 10, 2004).

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed September 3, 2003. This Notice set a statutory period for reply of three months for issue fee transmittal. No extensions of time under 37 CFR 1.136(a) were available. On December 3, 2003 (Certificate of Mailing dated December 1, 2003), applicant filed a PTOL-85B Issue Fee Transmittal Form, formal drawings, and transmittal form. However, no issue fee payment

was received.[1] No issue fee having been received, the above identified application became abandoned on December 4, 2003. A Notice of Abandonment was mailed on February 2, 2004.

Petition Under 37 CFR 1.137(a):

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

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[3]

On petition, petitioner argues that he timely filed the issue fee and formal drawings. However, petitioner was not able to provide a USPTO date stamped, itemized postcard receipt, as he states that the one he submitted on December 3, 2003 was never returned to him. In addition, petitioner points out that his check was never cashed. Accordingly, petitioner concludes that his entire submission must have been lost by the US Post Office.

---

[1] The PTOL-85B did not contain a deposit account authorization for the issue fee, and there was no general deposit account authorization elsewhere in the file.

[2] 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).

[3] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A review of the application file reveals that it **does** contain a transmittal form, PTOL-85B Issue Fee transmittal form, and drawings, all bearing a USPTO date stamp of December 3, 2003. The only item lacking from the application file is the check for the issue and publication fees.

Petitioner has not met his burden of establishing that the entire delay was unavoidable. Petitioner states that "[t]he only explanation that can be offered is that the submission was lost by the US Postal service." However, there is no showing of record that precludes the possibility that petitioner simply forgot to include the check and postcard receipt with his response. In addition, petitioner states that the submission took place "according to our firm's practice and procedures." However, petitioner has not set forth what the firm's practice and procedures are. For example, the Manual of Patent Examining Procedure states:

> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
>
> (A) the error was the cause of the delay at issue;
>
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
>
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[4]

Alternative Venue and Other Matters:

Receipt of the $1,330 issue fee, $300 publication fee, and $30 fee for 10 copies of the printed patent, submitted with the instant petition, is acknowledged.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $685 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

---

[4] MPEP 711.03(c)(II)(C)(2).

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 related to this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN - 8 2005

#13

NOVAK DRUCE DELUCA & QUIGG, LLP
1300 EYE STREET NW
SUITE 400 EAST
WASHINGTON DC 20005

In re Application of	:
Harald Streicher et al	:
Serial No.: 09/967,530	: PETITION DECISION
Filed: October 1, 2001	:
Attorney Docket No.: 48567	:

This is in response to the petition under 37 CFR 1.181, filed April 18, 2005, for withdrawal of abandonment of the above identified application based on failure to receive an Office action.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on November 4, 2003. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on June 2, 2004. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. It is further noted that the Notices were mailed to an old correspondence address, a change of correspondence address having been submitted, but not recorded on Office records, on March 3, 2003, prior to the mailing of the Notices. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Notice of Allowance and Issue Fee Due and a new Notice of Allowability.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL Paper No. 3

JAN 15 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEAD, JOHNSON & KACHIGIAN
323 WEST SPRING STREET
FAYETTEVILLE OK 72701

In re Application of:
Waller et al.
Application No.: 09/967,586
Filed: September 28, 2001
For: METHOD FOR ECONOMIC BIDDING BETWEEN RETAILERS AND SUPPLIERS OF GOODS IN BRANDED, REPLENISHED CATEGORIES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2001.

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.

It is noted that the instant petition avers that the request for withdrawal is submitted at the request of the Assignee. However, while this request is made by an attorney of record, this Office has no record of an assignment in the above-identified application.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

cc: Trent C. Keisling
1 East Center Street
Suite 214
Fayettville, AR 72701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 6

Steven Laut
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAIL

SEP 1 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Marc Van Oldenborgh et al.
Application No. 09/967,600
Filed: September 28, 2001
For: ORGANIC DATA NETWORK HAVING A DYNAMIC TOPOLOGY

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

This is a decision on the petition, filed February 12, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

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

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

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

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

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

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

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

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated.*** The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient because it does meet the requirements of section (b) . The petition does not contain the statement that Applicant believes all claims are presented to a single invention and that Applicant will make an election ***without traverse*** if the Office determines that all claims are not obviously directed to a single invention.

Accordingly, the Petition is **DISMISSED**.

The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 8

Steven Laut
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

MAIL

OCT 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:)
Marc Van Oldenborgh et al.)
Application No. 09/967,600)
Filed: September 28, 2001)
For: ORGANIC DATA NETWORK)
HAVING A DYNAMIC TOPOLOGY)

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

This is a decision on the request for reconsideration, filed October 8, 2002 of the decision mailed September 13, 2002 denying the grant of special status based on M.P.E.P. §708.02, Section VIII.

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

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

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

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

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

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

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

Applicant's submission filed October 8, 2002, corrects the deficiency noted in the previous decision of mail date September 13, 2002. The combined submissions now meet all the criteria set out above, accordingly, the Petition is **GRANTED**.

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 8

ARRAYCOMM INC
2480 N. FIRST STREET
SUITE 200
SAN JOSE, CA 95131-1014

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Craig H. Barratt et al	:	
Application No. 09/967,637	:	NOTICE
Filed: September 28, 2001	:	
Attorney Docket No. 15685P117	:	

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 2681.

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

Date : 4/25/08

Patent No. : 7336626 B2
Application No : 09/967637
Inventor(s) : Barratt et al.
Issued : Feb. 26, 2008
Title : **OPERATING TIME DIVISION DUPLEX (TDD) WIRELESS SYSTEMS IN PAIRED SPECTRUM (FDD) ALLOCATIONS**
Docket No. : 15685P117

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).

In view of the foregoing, your request is hereby 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 Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

ARRAYCOMM/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MFD/eme

UNITED STATES 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 13, 2009

Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

Patent No.: 7,336,626 B2
Application No.: 09/967,637
Inventor(s): Craig H. Barratt, et al.
Issued: February 26, 2008
Title: **OPERATING TIME DIVISION DUPLEX (TDD) WIRELESS SYSTEMS IN PAIRED SPECTRUM (FDD) ALLOCATIONS**

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.

In view of the foregoing your request is hereby again **denied.**

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

Paper No. 5

GREGORY P. EINHORN
FISH & RICHARDSON P.C.
4350 LA JOLLA VILLAGE DRIVE, SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

MAR 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Ikuo Matsui :
Application No. 09/967,645 : NOTICE
Filed: September 28, 2001 :
Attorney Docket No. 13558-002001 :

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

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

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

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

This file is being forwarded to Technology Center 1600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Abeshouse et al. : DECISION ON PETITION
Application No. 09/967,656 :
Filed: September 28, 2001 :
Atty Docket No. ARIBP053 :

This is a decision on the PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT AND RELATED RELIEF filed October 20, 2008.

The above-identified application became abandoned for failure to file a proper reply to the non-final Office action mailed June 20, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). A reply was filed on August 24, 2007. However, it was determined by the examiner not to constitute a proper reply. No further reply timely filed and no extension of time obtained, the application became abandoned effective September 21, 2007. A courtesy Notice of Abandonment was mailed on October 7, 2008.

In response, applicant filed the instant petition, requesting withdrawal of the holding of abandonment. Applicant argues that their response filed August 24, 2007 was proper inasmuch as argued therein that the Office action mailed June 20, 2007 did not consider the claims present in the application given the preliminary amendment filed September 28, 2001. On petition, applicant points out that the preliminary amendment is identified in error as an application data sheet (ADS) in the image file wrapper of this application. The record has been reviewed and applicant's arguments considered, and it is determined that under the circumstances withdrawal of the holding of abandonment is warranted.

Furthermore, the image file wrapper for this application has been corrected. Specifically, the identification of the amendment filed September 28, 2001 as an ADS has been corrected to identification as a preliminary amendment.

In view thereof, the Notice of Abandonment mailed October 7, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

To the extent that the petition under § 1.181 requests withdrawal of the holding of abandonment, the petition is **GRANTED**. (With respect to applicant's requests for entry of the preliminary amendment filed September 28, 2001, withdrawal of the Office action mailed June 20, 2007, and examination of claims 22-24 and 28-60, a decision on these actions is properly made by the primary examiner).

No fee is required on petition under § 1.181.

Technology Center AU 3692 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on August 24, 2007 in light of the preliminary amendment filed September 28, 2001.

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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United States Patent and Trademark Office
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TECHNOLOGY CENTER 2100

Paper No. 9

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

In re Application of:
Kenneth J. LANCOS, et al.
Application No. 09/967,689
Filed: September 28, 2001
For: SYSTEM AND METHOD FOR TRANSMITTING MESSAGES FROM A GUEST TO ANOTHER PARTY AT A COVERAGE AREA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 13, 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 signer of the petition, William E. Alford, is not an attorney or agent of record; therefore he is not authorized to act on behalf of the attorney(s) of record. 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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Bldg. R11, Mail Station A109
El Segundo, CA 90245-0956

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OFFICE OF PETITIONS

In re Application of
Ying J. Feria, et. al.
Application No. 09/967,691
Filed: September 28, 2001
Attorney Docket No. PD-200299A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 26, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed December 6, 2005. A Notice of Abandonment was mailed on June 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $120 for a one month extension of time filed on June 16, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $120 extension of time submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 2611, for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MAIL

NOV 12 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO CA 94306

In re Application of :
Mittal :
Application No. 09/967,696 :
Filed: September 28, 2001 :
For: SYSTEM AND METHOD FOR MONITORING OSNR IN AN OPTICAL NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on August 21, 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 in the 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.

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

cc: Mr. David Fox
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

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Commissioner for Patents
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

In re Application of:
HSU
Application Serial No.: 09/967,713
Filed: September 27, 2001
For: **DOCUMENT HOLDING FIXTURE**

DECISION
ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181 filed August 24, 2005.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper response to the *Ex Parte Quayle* Office action mailed April 7, 2005. A Notice of Abandonment was mailed on June 21, 2005.

A review of the record indicates that the Notice of abandonment was mailed shortly after the shortened statutory period expired and well before the end of the six month statutory period. Applicant was given no opportunity to petition for extension of time as appropriate.

Accordingly, the application is restored to pending status.

Petitioner is reminded that the statutory period continues to run from the date mailing date of April 7, 2005 of the Quayle action.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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

APR 10 2003

Paper No. 11

In re Application of :
Steven A. Weiss : DECISION ON PETITION
Application No. 09/967,725 :
Filed: September 28, 2001 :
Attorney Docket No. 30179-pa

This is a decision on the petition filed on March 7, 2003 requesting that the period for filing a reply to the Office letter dated November 22, 2002 be restarted. No fee is required for the petition.

The petition is dismissed.

Petitioner requests that the period for filing a reply to the Office letter in question be restarted on the basis that the Office letter was not mailed to the proper correspondence address. Petitioner alleges that a request to change the correspondence address was filed on April 2, 2002. However, in support of this allegation, petitioner has submitted only a post card receipt for the paper, but not a copy of the request to change the correspondence address. On April 8, 2003, a copy of the change of correspondence address as filed on April 2, 2002 was requested by Stephen Marcus, Special Program Examiner in Technology Center 3700. However, petitioner submitted by facsimile transmission a change of correspondence address form executed on April 8, 2003, which clearly is not the paper that is covered by the post card receipt. The change of address filed on April 8, 2003, will be entered.

Absent evidence showing establishing the content of the paper for which the post card receipt dated April 2, 2002 was issued, it is not possible to conclude that the Office letter dated November 22, 2002 was addressed incorrectly. If it was not addressed incorrectly, then there is no Office error involved in the late delivery to petitioner, and there is no basis for the relief request.

Accordingly, the time for filing a reply to the Office letter dated November 22, 2002 remains as set therein. Petitioner may file a renewed petition addressing the evidentiary deficiency discussed above, without fee. However, the filing of a renewed petition will not stay the running of the period for filing a reply to the Office letter in question, and unless the renewed petition is grantable, the period for reply will remain as set in that letter.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Bernhard Kreten, Esq. & Associates
300 Capitol Mall
Suite 1100
Sacremento, CA 95814

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LARSON & ANDERSON, LLC
P.O. BOX 4928
DILLON CO 80435

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OFFICE OF PETITIONS

In re Application of	:	
Gleave et al.	:	DECISION ON
Application No. 09/967,726	:	APPLICATION FOR
Filed: 09/28/2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. UBC.P-022	:	

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed on November 10, 2008. Applicants request that the initial determination of Patent Term Adjustment for the above-identified patent be corrected from 285 days to 637 days.

The application for patent term adjustment patent is **GRANTED TO THE EXTENT INDICATED**.

The Office has updated the PALM and PAIR screen to reflect that the correct Patent Term Adjustment (PTA) at the time of the mailing of the Notice of Allowance is 284 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 16, 2008, 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 285 days. This application for patent term adjustment was timely filed with or prior to payment of the issue fee.[1]

Applicants assert that the period of 191 days, from the day three (3) months after the date the notice to file missing parts

[1] PALM records indicate that the issue fee was paid on November 11, 2008.

was mailed until the date a sequence listing was filed should be removed.

Applicants' argument is not well taken. 37 CFR 1.704(b) states that an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, 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 that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

Further, 37 CFR 1.704(c)(7) states that circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

On December 5, 2001, a notice to file missing parts was mailed, requiring a sequence listing in compliance with 37 CFR 1.821-1.825.

Applicants assert a reply to the notice to file missing parts was filed on February 20, 2002. Applicants state that a postcard receipt has been submitted in support. The postcard receipt does not serve as *prima facie* evidence of the filing of a response in accordance with MPEP 503, however, because it

neither contains an Office-date stamp nor itemizes the filing of a sequence listing.

A reply to the notice to file missing parts was filed on June 20, 2002. This reply was incomplete, however, and a notice of incomplete reply was mailed on June 28, 2002.

Further, while a sequence listing was filed on July 15, 2002, as asserted by applicants, that sequence listing was not in compliance with 37 CFR 1.821-1.825, as indicated in the notice to comply mailed on August 14, 2002. On September 13, 2002, a sequence listing in compliance with 37 CFR 1.821-1.825 was filed.

In this regard, the sequence listing contained a certificate of mailing dated September 12, 2002, but was not received in the Office until September 13, 2002. In accordance with MPEP 2731 the date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in the calculation of patent term adjustment. See 37 CFR 1.703(f).

Accordingly, as the sequence listing in compliance with 37 CFR 1.821-1.821 was filed on September 13, 2002, three (3) months and 192[2] days after the mailing of the notice to file missing parts, entry of a period of reduction of 192 days, rather than 191 days, is warranted.

Applicants additionally assert that a period of 161 days of patent term adjustment should be entered pursuant to 37 CFR 1.703(a)(4) for the time between the filing of a notice of appeal and the mailing of a new office action. Specifically, a notice of appeal was filed on October 7, 2005, an appeal brief

[2] This 192 day period covers both the period applicants took to file a complete reply to the Notice mailed on June 28, 2002, and the time it took applicants to correct the omission in this reply. The omission was corrected on September 13, 2002.

was filed on November 28, 2005, and an office action was mailed on March 17, 2006.

37 CFR 1.703(a)(4) states 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 an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

Applicants are incorrect. At the outset, 37 CFR 1.703(a)(4) specifies that the period of Office delay begins on the date that an appeal brief in compliance with § 41.37 was filed, not on the date that a notice of appeal is filed. On November 28, 2005, an appeal brief in compliance with § 41.37 was filed. Further, the period under 37 CFR 1.703(a)(4) ends on the mailing of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. An office action under 35 U.S.C. 132 was mailed on March 17, 2006, which is within four (4) months of the date that the appeal brief was filed. Accordingly, entry of a period of 161 days of delay is not warranted.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is two hundred eighty-four (284) days (581 days of Office delay and 297 (192+51+54) days of applicant delay).

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

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the 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 if applicable, 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Copy of adjusted PAIR calculation

Day : Friday
Date: 6/26/2009

PALM INTRANET

Time: 18:05:57

PTA Calculations for Application: 09/967726			
Application Filing Date:	09/28/2001	PTO Delay (PTO):	581
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	296
Post-Issue Petitions:	0	Total PTA (days):	284
PTO Delay Adjustment:	-1		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
135	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		192	
134	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		192	
133	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	192		
132	06/26/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	191		
123	10/16/2008	MAIL NOTICE OF ALLOWANCE			
122	10/14/2008	ISSUE REVISION COMPLETED			
121	10/14/2008	DOCUMENT VERIFICATION			
120	10/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
119	10/14/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
118	10/14/2008	NOTICE OF ALLOWABILITY			
113	08/08/2008	DATE FORWARDED TO EXAMINER			
112	07/03/2008	RESPONSE AFTER NON-FINAL ACTION			
111	04/04/2008	MAIL NON-FINAL REJECTION			
110	03/31/2008	NON-FINAL REJECTION			
109	01/17/2008	DATE FORWARDED TO EXAMINER			
108	12/18/2007	RESPONSE AFTER NON-FINAL ACTION		54	101
107	05/01/2007	TERMINAL DISCLAIMER FILED		0	97
106	12/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
101	07/25/2007	MAIL NON-FINAL REJECTION			
100	07/21/2007	NON-FINAL REJECTION			
99	05/11/2007	PARALEGAL TD ACCEPTED			
98	05/08/2007	DATE FORWARDED TO EXAMINER			
97	05/01/2007	RESPONSE AFTER NON-FINAL ACTION			
96	04/09/2007	MAIL NON-FINAL REJECTION			

95	04/02/2007	NON-FINAL REJECTION			
94	01/26/2007	DATE FORWARDED TO EXAMINER			
93	01/16/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
92	01/26/2007	DATE FORWARDED TO EXAMINER			
91	01/16/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
90	01/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
89	01/16/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
87	12/22/2006	MAIL REPLY BRIEF NOTED BY EXAMINER			
86	12/20/2006	REPLY BRIEF NOTED BY EXAMINER			
85	01/11/2007	DATE FORWARDED TO EXAMINER			
84	11/09/2006	REPLY BRIEF FILED			
64	10/10/2006	EXAM. ANS. REVIEW COMPLETE			
63	10/10/2006	APPEAL BRIEF REVIEW COMPLETE			
62	09/13/2006	MAIL EXAMINER'S ANSWER			
61	08/30/2006	EXAMINER'S ANSWER TO APPEAL BRIEF			
60	06/20/2006	DATE FORWARDED TO EXAMINER			
59.1	06/16/2006	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
59	06/16/2006	APPEAL BRIEF FILED			
58	06/16/2006	NOTICE OF APPEAL FILED			
57	05/26/2006	CORRESPONDENCE ADDRESS CHANGE			
56	03/17/2006	MAIL NON-FINAL REJECTION			
55	03/16/2006	NON-FINAL REJECTION			
54	01/12/2006	DATE FORWARDED TO EXAMINER			
53	11/28/2005	APPEAL BRIEF FILED			
52	10/07/2005	NOTICE OF APPEAL FILED			
51	09/23/2005	MAIL ADVISORY ACTION (PTOL - 303)			
50	09/21/2005	ADVISORY ACTION (PTOL-303)			
49	09/14/2005	DATE FORWARDED TO EXAMINER			
48	09/07/2005	AMENDMENT AFTER FINAL REJECTION			
47	07/13/2005	MAIL FINAL REJECTION (PTOL - 326)			
46	07/11/2005	FINAL REJECTION			
45	05/28/2003	REFERENCE CAPTURE ON IDS			
44	04/18/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
43	04/26/2005	DATE FORWARDED TO EXAMINER			

42	04/18/2005	RESPONSE AFTER NON-FINAL ACTION		51	37
41	04/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
40.7	03/17/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
40	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38.7	05/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	05/28/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	11/26/2004	MAIL SUPPLEMENTAL NON-FINAL ACTION			
36	11/24/2004	SUPPLEMENTAL NON-FINAL ACTION			
35	10/14/2004	MAIL NON-FINAL REJECTION			
34	10/13/2004	NON-FINAL REJECTION			
33	08/31/2004	CASE DOCKETED TO EXAMINER IN GAU			
32	08/09/2004	DATE FORWARDED TO EXAMINER			
31	07/28/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
30	07/28/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	07/01/2004	MAIL RESTRICTION REQUIREMENT	581		-1
28	06/28/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
27	06/14/2004	REFERENCE CAPTURE ON IDS			
26.7	04/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	04/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	03/18/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
24	12/24/2002	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
23.7	02/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	02/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	03/11/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	02/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	06/10/2003	APPLICATION DISPATCHED FROM OIPE			
19	05/16/2003	APPLICATION IS NOW COMPLETE			
17	09/12/2002	ADDITIONAL APPLICATION FILING FEES		191	6

16	09/12/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
15	05/05/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
14	08/14/2002	SEQUENCE ERRORS			
13	07/09/2002	ADDITIONAL APPLICATION FILING FEES			
12	07/09/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	07/09/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	08/01/2002	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
9	06/20/2002	ADDITIONAL APPLICATION FILING FEES			
8	06/20/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	06/20/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
6	12/05/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/09/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/09/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/28/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

JUN 29 2004
Mailed:_____

rvk
Paper Number: _____

In re application of :
Irwin Charles Lewis et al. : DECISION ON
Serial No. 09/967,734 : PETITION
Filed: September 28, 2001 :
For: SUGAR ADDITIVE BLEND USEFUL AS A BINDER OR IMPREGANANT FOR CARBON PRODUCTS :

This is a response to the "PETITION FOR WITHDRAWAL OF NOTICE OF ABANDONMENT PURSUANT TO 37 C.F.R.1.181", filed March 09, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 09, 2003, for failure to timely file a proper response to the Office letter mailed June 04, 2003 be withdrawn. The petitioner asserts that a Request for Continued Examination (RCE) was timely filed on September 08, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the instant application file indicates that no Notice Of Abandonment was mailed out on December 09, 2003. A Request for Continued Examination (RCE) under 37 C.F.R. 114 including the fee set forth in 37 C.F.R. 1.17(e) was filed on September 08, 2003. Applicants' submission filed March 23, 2004 has been entered. As a result, a non-final rejection was mailed on May 18, 2004. Therefore, no further action is required.

The instant petition was accompanied by $130.00 as a petition fee. However, a petition of this type does not require a $130.00 petition fee. Therefore, a refund of the $130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WADDEY & PATTERSON
414 UNION STREET, SUITE 2020
BANK OF AMERICAN PLAZA
NASHVILLE, TN 37219

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 6

Pillsbury Winthrop, LLP
725 S. Figueroa Street
Suite 2800
Los Angeles, CA 90017-5406

COPY MAILED

MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Virginia L. Robbins, et al. :
Application No. 09/967,738 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 81674-273213 :

This is in response to the "Petition Under 37 CFR 1.47(a), filed May 6, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) and (2) set forth above.

In regards to Item (1), petitioner has provided a copy of the receipt card, which was attached to the envelope, mailed to the non-signing inventor, containing a copy of the application file and the oath or declaration. However, there is no copy of the signed certified mail receipt to show whether the papers were signed for or whether they were returned. If petitioner has a copy of the signed certified mail receipt or a copy of the returned envelope, the copy should be submitted to the USPTO upon the filing a request for reconsideration.

In regards to Item (2), the declaration executed by the second inventor does not include the page containing the third inventor's information. As such, it does not comply with the requirements set forth in 37 CFR 1.63(a)(2) and MPEP 602. Accordingly, petitioner must submit a declaration in compliance with 37 CFR 1.63(a)(2) and MPEP 602.

In order to expedite consideration, petitioner may wish to submit the request for reconsideration of the petition under 37 CFR 1.47 by facsimile transmission to the telephone number indicated below and to the attention of Marianne Morgan.

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

By Express Mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By First Class Mail:	United States Patent and Trademark Office P. O. Box 2327, Mail Stop DAC Arlington, VA 22202
By FAX:	(703) 308-6916 Attn: Office of Petitions
By HAND:	2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Pillsbury Winthrop, LLP
725 S. Figueroa Street
Suite 280
Los Angeles, CA 90017-5406

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OFFICE OF PETITIONS

In re Application of	:	
Virginia L. Robbins, et al.	:	DECISION NOTING JOINDER OF
Application No. 09/967,738	:	INVENTOR AND PETITION
Filed: September 28, 2001	:	UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. 81674-273213	:	

Papers filed on April 1, 2003 in response to a "Decision Refusing Status Under 37 CFR 1.47(a)" mailed March 6, 2003 included a Declaration signed by a previously non-signing inventor, Carlos Rozas, in compliance with 37 CFR 1.63.

The petition is dismissed as moot.

In view of the joinder of the inventor, further consideration under § 1.47(a) is not necessary. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under 37 CFR 1.47(a).

The application file is being forwarded to the Office of Initial Patent Examination to complete processing of the application.

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERNHARD KRETEN
1331 GARDEN HIGHWAY
SUITE 300
SACRAMENTO CA 95833

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence Weiss et al	:	
Application No. 09/967,745	:	ON PETITION
Filed: September 28, 2001	:	
Attorney Docket No. 31072-PA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 3, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 4, 2004.

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

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KM:09-01

KM:09-01

Paper No. 5

Darby & Darby P.C.
805 Third Avenue
New York, NY 10022

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JAN 2 8 2002

OFFICE OF PETITIONS

In re Application of:
Huang et al
Application No. 09/967,746
Filed: 28 September 2001
Attorney Docket No. 3158/0J785

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

This is in response to the petition under 37 C.F.R.§1.47(a) filed herein on 7 November 2001.

The above-identified application was filed on September 28, 2001. However, the declaration submitted with the application was defective because it lacked the signature of Inventor Huang. Accordingly the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application to the address of record on October 24, 2001 The notice requested the submission of a signed declaration and set a two month period for replying. In the Response to the Notice to File Missing Parts filed November 1, 2001, Petitioner stated that a a petition under 37 CFR 1.47(a) was filed concurrently with the present application on September 28, 2001. Petitioner submited a copy of the filed petition.

A grantable petition under 37 CFR 1.47(a) requires

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

(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). [1]

[1] See 37 C.F.R. §1.47(a) "Filing when an inventor refuses to sign or cannot be reached."

The instant petition fails to satisfy items (1) and (4).

Petitioner states "upon information and belief" that a copy of the application along with a Declaration/Power of Attorney was provided to both inventors Huang and Chuang through the foreign associates of Darby & Darby, TOP TEAM International Patent and Trademark Office of Taipei, Taiwan, R.O.C. While Inventor Chuang returned the executed documents, Inventor Huang failed to return the documents. A residential address for Inventor Huang is unknown and the address provided on the Declaration of Inventor Huang is the company Via Technologies, Inc. which employed Inventor Huang at the time of the invention. Petitioner concludes that efforts made by the foreign associate, of Darby & Darby, to contact Inventor Huang or obtain a current address were to no avail. Petitioner states that the last known address of Inventor Huang is provided on Exhibit A. It is noted that Exhibit A states that the residential address of Inventor Huang is unknown.

The statement of facts presented is not convincing to establish that a complete application (specification, claims, and drawings) was provided to Inventor Huang. Further, the statement of facts, where at all possible, must be signed by a person having firsthand knowledge of the facts recited therein[2]. Petitioner does not appear to have firsthand knowledge of the facts and has not presented evidence that demonstrates that it is not possible for a person having firsthand knowledge of the facts to sign the statement of facts.

The statement of facts presented is not convincing to establish that a diligent effort has been made to reach Inventor Huang or to locate the last known address at which he customarily receives mail. Diligence is demonstrated by a statement of facts delineating the steps taken to locate the whereabouts of the non-signing inventor supported by copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions and telegrams that demonstrate that the non-signing inventor could not be found.[3] Other than a single mailing of "the application" (wherein it is not made clear that the application was the complete application as filed, that is the specification, claims and drawings), no other steps by the foreign associate are delineated, upon the

---

[2] M.P.E.P. §409.03(d) "Proof of Unavailability or Refusal"

[3] Id.

information and belief of Petitioner. No documentary evidence of the mailing or lack of response has been submitted.

Although Petitioner concludes that the efforts of the foreign associate to contact Inventor Huang or obtain a current address were to no avail, Petitioner does not support the conclusion by presenting copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions and telegrams that demonstrate that the non-signing inventor could not be found. Diligence has not been demonstrated.

Although Petitioner states that the address provided on the Declaration for Inventor Huang is the company, Via Technologies, Inc, for which Inventor Huang worked at the time the invention was made, there is no indication that this address was the address at which the inventor customarily received mail[4].

This petition is *dismissed*.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time

under 37 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.**

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47 by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

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

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

---

[4] M.P.E.P. §409.03(e) "Statement of Last Known Address"

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Susan Ungar at (703) 305-1645.

Scott Ledford
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. 8

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
POST OFFICE BOX 5257
NEW YORK, NY 10150-5257

In re Application of
Huang, et al.
Application No. 09/967,746
Filed: September 28, 2001
Atty. Dkt. No. 3158/OJ785
Title: MIDDLE PULL-UP POINT-TO-POINT TRANSCEIVING BUS STRUCTURE

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 25, 2002 and supplemented June 26, 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).

The renewed petition submitted April 25, 2002 included a petition fee of $130.00. As the petition fee was already submitted September 28, 2001, the additional petition fee is unnecessary. A refund to deposit account No. 04-0100 has been requested.

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GLENN E. VON TERSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of :
Coker, et al. :
Application No. 09/967,760 : DECISION ON PETITION
Filed: September 28, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P009 : 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 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor, & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson, Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/967,760	09/28/2001	John Coker	005306.P009

CONFIRMATION NO. 7250

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

OC000000020465372
OC000000020465372

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 15 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco CA 94111-4187

In re Application of :
ZINN, RAYMOND D. :
Application No. 09/967,807 : DECISION ON PETITION
Filed: September 28, 2001 :
For: **APPARATUS AND METHOD FOR ENCODING AND DECODING SIGNALS** :

This is a decision on the petition filed October 24, 2005, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application was held abandoned for failure to respond in a timely manner to the Non-Final Office action mailed January 12, 2005. The application became abandoned when no further response was received. A Notice of Abandonment was mailed September 23, 2005.

Petitioner alleges to have timely submitted a response to the Office Action. In support, the Petitioner has included a copy of the return postcard date stamped May 16, 2005, itemizing a transmittal letter, an Amendment and a petition for one month extension of time. Petitioner notes that the serial number is incorrectly listed on the response papers.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The receipt date of the response is subsequent to the extended four month period for response. However, the response has affixed thereto, a proper certificate of mailing dated May 12, 2005. Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

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

The petition is **GRANTED**.

The application will be forwarded to Technology Center's technical support staff for processing the petition for extension of time and amendment. From there, the file will be forwarded to the examiner for examination in due course. Petitioner is reminded of the importance of correctly indicating application information on all papers filed.

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

Paper No. 7

SILICON VALLEY PATENT GROUP LLP
2350 MISSION COLLEGE BOULEVARD
SUITE 360
SANTA CLARA CA 95054

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OFFICE OF PETITIONS

In re Application of
Venkat Konda
Application No. 09/967,815
Filed: September 27, 2001
Attorney Docket No. M-12158 US
Title: REARRANGEABLY NONBLOCKING MULTICAST MULTI-STAGE NETWORKS

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on November 4, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on September 6, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of

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

an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

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

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

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

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

cc: Venkat Konda
Teak Networks, Inc.
6278 Grand Oak Way
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

Date Mailed : June 14, 2010

Serial no. : 09/967822
Patent No. :6,790,035 B2
Patent Issued : September 14, 2004
Inventor(s) : Stephen R. Wurzburger, et al.
Title :PROCESS FOR TREATING ACID MINE WATER WITH MODERATE TO HIGH SULFATE CONTENT

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..

Respecting the alleged error(s) noted in your request applicant fails to meet MPEP 1481.03(B) and 37 CFR 1.78(a) l. The inventorship is different in both applications; see also MPEP 1401-1460. Applicant might need to file a reissue application to correct this.

In view of the forgoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decision and Certificate
Of Correction Branch
(571)272-0423

Townsend and Townsend & Crew LLP
Two Embarcadero Center, 8th Fl.
San Francisco, CA 94111-3834

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 4, 2008

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No 09/967822 patent no6790035

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Applicant fails to meet MPEP 1481.03 B(B), and 37 CFR 1.78(a)1. The inventorship is different in both applications. See also MPEP 1401-1460. Applicant might need to file a reissue application to correct this.

Cris L Rodriguez — SPE

3732 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060628

DATE : June 29, 2006

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction on Patent No.: 7,039,669

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

Nothing in the Office records "clearly discloses" that the "mistakes" in the patent were incurred through the fault of the USPTO. In fact, there are no mistakes in the record concerning the claims proposed to be "corrected." Claims 17-21, 23-25, 43-47 and 49-51 were submitted in an RCE dated 11/21/2005 (see attachment) with no amendments to the claims. As evidence to support the examiner's postion that no mistake was made by the Office, the examiner submits the following: 1) the Patent Owner is "correcting" Claims 17-21, 23-25, 43-47 and 49-51; 2) Claims 17, 19-21, 23-25, 43-47 and 49-51 are the original, unamended claims submitted with the patent application; and 3) during prosecution of the application, only Claim 18 was amended -- to insert a period at the end of the claim (see Response dated 06/27/2005 -- Page 9). Moreover, the proposed "corrections" change the scope of the claims.

HEATHER R. HERNDON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

ATTACHMENT

OIPE IAP88 NOV 21 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Confirmation Number: 5405
Lik WONG et al.	:	Group Art Unit: 2176
Serial No.: 09/967,856	:	Examiner: William D. HUTTON
Filed: September 28, 2001	:	

For: TECHNIQUES FOR ADDING A MASTER IN A DISTRIBUTED DATABASE WITHOUT SUSPENDING DATABASE OPERATIONS AT EXTANT MASTER SITES

Mail Stop RCE
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REPLY TO FINAL OFFICE ACTION

WITH REQUEST FOR CONTINUED EXAMINATION

Sir:

In reply to the Final Office Action mailed September 22, 2005, the shortened statutory period for which runs until December 22, 2005, please reconsider the subject application in light of the amendments and remarks herein. A Request for Continued Examination (RCE) is filed concurrently herewith.

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 23 of this paper.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on November 17, 2005 by Teresa Austin

AMENDMENTS TO THE CLAIMS

1. (Currently Amended) A method for making a replica of a particular group of database objects on a database on a particular node that does not initially have the particular group of database objects, the method comprising:

transferring description data, which describes the particular group of database objects, from a first node to the particular node during a transfer period that begins at a start-transfer time and ends at an end-transfer time;

wherein at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export of the description data from the first node is completed; and

during the transfer period, processing a request at the first node to perform an operation involving particular data in the particular group of database objects, wherein processing the request to perform the operation comprises performing the operation.

2. (Original) The method of Claim 1, said step of processing the request further comprising, in response to a request to obtain the particular data, performing the steps of:

retrieving the particular data from the particular group of database objects at a node different from the particular node; and

providing the particular data to the user.

3. (Previously Presented) The method of Claim 1, said step of processing the request further comprising the steps of:

deriving certain data from the request; and

changing the particular data in the particular group of database objects at a node different from the particular node according to the certain data.

4. (Original) The method of Claim 1, said step of processing the request further comprising the steps of:

processing the request using a replica of the particular group of database objects on a node different from the particular node;

storing at the node different from the particular node, for deferred transmission to the particular node, change data indicating changes to the particular group of database objects based on the request; and

at a time later than the start-transfer time, sending the change data indicating changes to the particular node.

5. (Original) The method of Claim 1, wherein:

the step of transferring the description data includes transferring data describing a master database group replicated on a first set of one or more nodes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the master database group.

6. (Previously Presented) The method of Claim 1, wherein the first node is a master definition node that is authorized to define members of the particular group of database objects.

7. (Original) The method of Claim 1, wherein:

the step of transferring the description data includes transferring data describing a database table that has one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database table.

8. (Original) The method of Claim 1, wherein:

the step of transferring the description data includes transferring data describing a database view of certain columns of one or more database tables, wherein each of the one or more database tables has one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database view.

9. (Original) The method of Claim 1, wherein:

the step of transferring the description data includes transferring data describing an index of values in a key column in a database table, the database table having one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the index.

10. (Original) The method of Claim 1, wherein:

the step of transferring the description data includes transferring data describing a database trigger executed upon an operation involving a database table, the database table having one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database trigger.

11. (Original) The method of Claim 1, wherein:
the step of transferring the description data includes transferring data describing a package of procedures executed by a database server; and
the step of processing the request includes processing the request to execute one or more of the procedures in the package.

12. (Original) The method of Claim 1, wherein:
the method further comprises sending a first message at or before the start-transfer time to a second node that stores a copy of the particular group of database objects, the message indicating that a replica of the particular group of database objects is being made on the particular node; and
in response to the first message, the second node begins storing change data for deferred transmission to the particular node, wherein said change data indicates changes made to the particular group of objects at the second node.

13. (Original) The method of Claim 12, wherein:
the method further comprises the step of, after the end-transfer time, sending a second message to the second node;
the second message indicates that the particular node may receive the change data;
in response to the second message, the second node sends the change data to the particular node.

14. (Previously Presented) The method of Claim 1, wherein:

a predefined schedule determines when stored change data indicating changes to the particular group of database objects are propagated from one node to another node of a group of nodes storing the particular group of database objects; and

said step of transferring the description data further comprising the steps of

at or before the start-transfer time, halting propagation of change data to the first node according to the predefined schedule;

exporting the particular group of database objects at the first node to a file until a third time before the end-transfer time;

at or after the third time, resuming propagation of the change data to the first node; and

sending the file to the particular node for importing the particular group of database objects at the particular node.

15. (Original) The method of Claim 14, wherein

said step of halting propagation to the first node of the change data further comprises the step of sending to a second node that stores a replica of the particular group of database objects a first message from the first node;

the first message indicates that propagation of the change data to the first node is to be halted; and

in response to the first message, the second node stores in a data structure at the second node the change data based on the request received at the second node, for deferred transmission of the change data to the first node.

16. (Currently Amended) The method of Claim 15, said step of resuming propagation of the ~~request~~ change data to the first node further comprising the steps of:

sending to the second node a second message from the first node indicating propagation of the change data to the first node is to be resumed; and

in response to sending the second message, receiving at the first node a third message from the second node including the change data.

17. (Original) The method of Claim 1, said step of transferring the data residing on the first node further comprising the step of building the particular group of database objects on the particular node from a database recovery process for the first node, without halting propagation of change data to the first node for a time perceived by a human user, said change data indicating changes to the particular group of database objects.

18. (Original) The method of Claim 14, said step of transferring the description data further comprising the step of determining that first conditions for copying a full database are satisfied before performing said steps of halting propagation, exporting, resuming propagation and sending the file for importing.

19. (Original) The method of Claim 17, said step of transferring the data for the particular group on the first node further comprising the step of determining that first conditions for copying a full database are satisfied before performing said step of building the particular group of database objects on the particular node from the database recovery process for the first node.

20. (Previously Presented) The method of Claim 18, said step of transferring the data for the particular group on the first node further comprising the step of, if it is determined that first conditions for copying the full database are not satisfied, then using database functions for exporting individual database objects.

21. (Original) The method of Claim 19, said step of transferring the data for the particular group on the first node further comprising the step of, if it is determined that first conditions for copying the full database are not satisfied, then using database functions for exporting individual database objects.

22. (Original) The method of Claim 1, further comprising receiving input that specifies the particular group of database objects that are to be replicated at the particular node.

23. (Original) The method of Claim 1, further comprising receiving input that specifies the particular node at which the particular group is to be replicated.

24. (Original) The method of Claim 1, further comprising receiving input specifying the first node of a set of nodes on a network.

25. (Original) The method of Claim 22, further comprising automatically determining, based on the particular group of database objects, that the first node of a set of nodes on a network is to be the node to transfer the description data.

26. (Canceled)

1 27. (Canceled)

1 28. (Canceled)

1 29. (Canceled)

1 30. (Canceled)

1 31. (Canceled)

1 32. (Canceled)

1 33. (Canceled)

1 34. (Canceled)

1 35. (Canceled)

1 36. (Canceled)

1 37. (Canceled)

1 38. (Canceled)

1 39. (Canceled)

40. (Canceled)

41. (Canceled)

42. (Canceled)

43. (Canceled)

44. (Original) A method for adding a particular node as a peer node to a distributed database, comprising making a replica of a particular master group of database objects of the database on the particular node that does not initially have the particular master group of database objects, the step of making the replica further comprising:

receiving input specifying the particular node and the particular master group of database objects;

selecting a first peer node among a plurality of peer nodes, wherein the first peer node is a master definition node authorized to define members of the particular group of database objects;

transferring description data describing the particular master group of database objects from the first peer node to the particular node during a transfer period that begins at a start-transfer time and ends at an end-transfer time, said transferring further comprising:

determining whether first conditions for copying a full database are satisfied;

if the first conditions are satisfied, then using a database function for exporting the full database;

if the first conditions are not satisfied, then using database functions for exporting individual database objects;

sending a first message at or before the start-transfer time to a second peer node that stores a copy of the particular group of database objects, the first message indicating that a replica of the particular master group of database objects is being made on the particular node; and

after the end-transfer time, sending a second message to the second node, the second message indicating that the particular node may receive second-node change data indicating changes made at the second peer node to the particular group of database objects during the transfer period; and

during the transfer period, processing a request to perform an operation involving particular data in the particular master group of database objects, said processing comprising:

processing the request using a replica of the particular master group of database objects on a peer node different from the particular node;

storing first-node change data for deferred transmission to the particular node, the first-node change data indicating changes that were made to the particular master group of database objects on the first node based on the request; and

in response to sending the second message, sending the first-node change data to the particular node.

45. (Currently Amended) A computer-readable medium carrying one or more sequences of instructions for making a replica of a particular group of database objects on a database

on a particular node that does not initially have the particular group of database objects, wherein execution of the one or more sequences of instructions by one or more processors causes the one or more processors to perform the steps of:

transferring description data, which describes the particular group of database objects, from a first node to the particular node during a transfer period that begins at a start-transfer time and ends at an end-transfer time;

wherein at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export of the description data from the first node is completed; and

during the transfer period, processing a request at the first node to perform an operation involving particular data in the particular group of database objects, wherein processing the request to perform the operation comprises performing the operation.

46. (Original) The computer-readable medium of Claim 45, said step of processing the request further comprising, in response to a request to obtain the particular data, performing the steps of:

retrieving the particular data from the particular group of database objects at a node different from the particular node; and

providing the particular data to the user.

47. (Previously Presented) The computer-readable medium of Claim 45, said step of processing the request further comprising the steps of:

deriving certain data from the request; and

changing the particular data in the particular group of database objects at a node different from the particular node according to the certain data.

48. (Original) The computer-readable medium of Claim 45, said step of processing the request further comprising the steps of:

processing the request using a replica of the particular group of database objects on a node different from the particular node;

storing at the node different from the particular node, for deferred transmission to the particular node, change data indicating changes to the particular group of database objects based on the request; and

at a time later than the start-transfer time, sending the change data indicating changes to the particular node.

49. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing a master database group replicated on a first set of one or more nodes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the master database group.

50. (Original) The computer-readable medium of Claim 45, wherein the first node is master definition node that is authorized to define members of the particular group of database objects.

51. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing a database table that has one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database table.

52. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing a database view of certain columns of one or more database tables, wherein each of the one or more database tables has one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database view.

53. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing an index of values in a key column in a database table, the database table having one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the index.

54. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing a database trigger executed upon an operation involving a database table, the database table having one or more columns of attributes; and

the step of processing the request includes processing the request to perform an operation involving particular data in the database trigger.

55. (Original) The computer-readable medium of Claim 45, wherein:

the step of transferring the description data includes transferring data describing a package of procedures executed by a database server; and

the step of processing the request includes processing the request to execute one or more of the procedures in the package.

56. (Original) The computer-readable medium of Claim 45, wherein:

execution of the one or more sequences of instructions by one or more processors further causes the one or more processors to perform the step of sending a first message at or before the start-transfer time to a second node that stores a copy of the particular group of database objects, the message indicating that a replica of the particular group of database objects is being made on the particular node; and

in response to the first message, the second node begins storing change data for deferred transmission to the particular node, wherein said change data indicates changes made to the particular group of objects at the second node.

57. (Original) The computer-readable medium of Claim 56, wherein:

execution of the one or more sequences of instructions by one or more processors further causes the one or more processors to perform the step of, sending a second message to the second node after the end-transfer time;

the second message indicates that the particular node may receive the change data;

in response to the second message, the second node sends the change data to the particular node.

58. (Original) The computer-readable medium of Claim 45, wherein:

a predefined schedule determines when stored change data indicating changes to the particular group of database objects are propagated from one node to another node of a group of nodes storing the particular group of database objects; and

said step of transferring the description data further comprising the steps of

at or before the start-transfer time, halting propagation of change data to the first node according to the predefined schedule;

exporting the particular group of database objects at the first node to a file until a third time before the end-transfer time;

at or after the third time, resuming propagation of the change data to the first node; and

sending the file to the particular node for importing the particular group of database objects at the particular node.

59. (Original) The computer-readable medium of Claim 58, wherein

said step of halting propagation to the first node of the change data further comprises the step of sending to a second node that stores a replica of the particular group of database objects a first message from the first node;

the first message indicates that propagation of the change data to the first node is to be halted; and

in response to the first message, the second node stores in a data structure at the second node the change data based on the request received at the second node, for deferred transmission of the change data to the first node.

60. (Currently Amended) The computer-readable medium of Claim 59, said step of resuming propagation of the ~~request~~ change data to the first node further comprising the steps of:

sending to the second node a second message from the first node indicating propagation of the change data to the first node is to be resumed; and

in response to sending the second message, receiving at the first node a third message from the second node including the change data.

61. (Original) The computer-readable medium of Claim 45, said step of transferring the data residing on the first node further comprising the step of building the particular group of database objects on the particular node from a database recovery process for the first node, without halting propagation of change data to the first node for a time perceived by a human user, said change data indicating changes to the particular group of database objects.

62. (Original) The computer-readable medium of Claim 58, said step of transferring the description data further comprising the step of determining that first conditions for copying a full database are satisfied before performing said steps of halting propagation, exporting, resuming propagation and sending the file for importing.

63. (Original) The computer-readable medium of Claim 61, said step of transferring the data for the particular group on the first node further comprising the step of determining that first conditions for copying a full database are satisfied before performing said step of building the particular group of database objects on the particular node from the database recovery process for the first node.

64. (Original) The computer-readable medium of Claim 62, said step of transferring the data for the particular group on the first node further comprising the step of, if it is determined that first conditions for copying the full database are not satisfied, then using database functions for exporting individual database objects.

65. (Original) The computer-readable medium of Claim 63, said step of transferring the data for the particular group on the first node further comprising the step of, if it is determined that first conditions for copying the full database are not satisfied, then using database functions for exporting individual database objects.

66. (Original) The computer-readable medium of Claim 45, wherein execution of the one or more sequences of instructions by one or more processors further causes the one or more processors to perform the step of receiving input that specifies the particular group of database objects that are to be replicated at the particular node.

67. (Original) The computer-readable medium of Claim 45, wherein execution of the one or more sequences of instructions by one or more processors further causes the one or

more processors to perform the step of receiving input that specifies the particular node at which the particular group is to be replicated.

68. (Original) The computer-readable medium of Claim 45, wherein execution of the one or more sequences of instructions by one or more processors further causes the one or more processors to perform the step of receiving input specifying the first node of a set of nodes on a network.

69. (Original) The computer-readable medium of Claim 66, wherein execution of the one or more sequences of instructions by one or more processors further causes the one or more processors to perform the step of automatically determining, based on the particular group of database objects, that the first node of a set of nodes on a network is to be the node to transfer the description data.

70. (Canceled)

71. (Canceled)

72. (Canceled)

73. (Canceled)

74. (Canceled)

75. (Canceled)

1 76. (Canceled)

1 77. (Canceled)

1 78. (Canceled)

1 79. (Canceled)

1 80. (Canceled)

1 81. (Canceled)

1 82. (Canceled)

1 83. (Canceled)

1 84. (Canceled)

1 85. (Canceled)

1 86. (Canceled)

1 87. (Canceled)

88. (Currently Amended) A system for making a replica of a particular group of database objects of a distributed database on a particular node that does not initially have the particular group of database objects, the system comprising:

a network;

one or more peer nodes connected to the network, each peer node storing a replica of the particular group of database objects of a distributed database;

the particular node connected to the network;

wherein,

a first node of the one or more peer nodes comprises one or more processors configured for transferring description data describing the particular group of database objects from the first node to the particular node during a transfer period that begins at a start-transfer time and ends at an end-transfer time,

wherein at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export of the description data from the first node is completed, and

a second node of the one or more peer nodes comprises one or more processors configured for responding, during the transfer period, to a request to perform an operation involving particular data in the particular group of database objects, wherein responding to the request to perform the operation comprises performing the operation, and wherein the first node is the same as the second node.

89. (Canceled)

90. (Canceled)

91. (Previously Presented) The system of Claim 88, wherein the second node comprises a processor configured to perform the steps of:

storing at the second node, for deferred transmission to the particular node, change data to the particular group of database objects based on the request; and

at a time later than the start-transfer time, sending the change data to the particular node.

92. (Original) The system of Claim 88, the particular node further comprising one or more processors configured for:

receiving from the second node particular data indicating changes to the particular group of database objects on the second node based on the request, the changes not reflected in the description data describing the particular group of database objects at a start-transfer time; and

modifying the particular group on the particular node based on the particular data indicating changes.

REMARKS

The Examiner is thanked for the performance of a thorough search and for considering the references submitted by the Applicants in the Information Disclosure Statements filed on June 27, 2005 and August 17, 2005. The Examiner is also thanked for allowing Claim 44, and for indicating that Claims 14-21 and 58-65 would be allowable if rewritten in independent form.

Claims 1, 16, 45, 60, and 88 have been amended herein. Specifically, Claims 16 and 60 have been amended to correct an obvious informality. Claims 89 and 90 have been canceled. No claims have been added. Hence, Claims 1-25, 44-69, 88, and 91-92 are pending in the application.

I. APPLICANTS' STATEMENT OF INTERVIEW

The Examiner is thanked for extending the courtesy of a telephone interview on November 15, 2005 to Applicants' representatives Marcel K. Bingham and Stoycho D. Draganoff. During the interview, Claim 1 was discussed in light of Charles Dye, *Oracle Distributed Systems*, Chapter 12 – Multi-Master Replication, ISBN 1-56592-432-0, published by O'Reilly and Associates, Inc. (hereinafter "DYE"). An agreement regarding patentability was not reached.

Specifically, a proposed amendment to Claim 1 that clarifies the differences over DYE was discussed. The Examiner indicated that the proposed amendment would overcome the teachings of DYE. The Examiner further indicated that a new search and consideration would be required in light of the proposed amendment to Claim 1.

II. STATUS OF CLAIMS

Claims 1-13, 22-25, 45-57, 66-69, 88, and 91-92 have been rejected under 35 U.S.C. §

102(b) as allegedly anticipated by DYE.

Claims 14-21 and 58-65 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

Claim 44 stands allowed.

III. RESPONSE TO REJECTIONS BASED ON THE CITED ART

A. Independent Claim 1

Claim 1 has been amended herein to incorporate the proposed amendment discussed with the Examiner during the telephone interview of November 15, 2005. The amendment to Claim 1 further clarifies the already existing differences over DYE.

Claim 1 comprises the features of:

> transferring description data, which describes the particular group of database objects, from a first node to the particular node during a transfer period that begins at a start-transfer time and ends at an end-transfer time;
> **wherein at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export of the description data from the first node is completed**; and
> during the transfer period, processing a request at the first node to perform an operation involving particular data in the particular group of database objects, **wherein processing the request to perform the operation comprises performing the operation.**

The Applicants respectfully submit that DYE does not describe the features of Claim 1 of processing a request to perform an operation involving particular data in the particular group of objects during the transfer period of transferring description data to the particular node, where processing the request comprises performing the operation and where at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export is of the description data from the first node is completed.

The Final Office Action interprets the period between Steps 2 and 8 in Table 12.5 on page 6 of 12 in DYE to correspond to the "transfer period" featured in Claim 1. While the Applicants disagree with this interpretation, the Applicants respectfully submit that the amended Claim 1 further clarifies the already existing differences between Claim 1 and DYE in regards to any such transfer period.

Specifically, Claim 1 features a transfer period, in which at the start-transfer time an export of the description data from the first node is started and at the end-transfer time the export of the description data from the first node is completed. Further, Claim 1 includes the feature of processing a request to perform an operation during the transfer period.

In contrast, DYE expressly teaches that during the period between Steps 2 and 5 in Table 12.5 of DYE, no operations are allowed to be performed at any master site against the replication group that includes a table for which a schema is being exported. Specifically, in page 6 of 12, DYE describes the steps necessary to instantiate a table at a new site by using the mechanism of "Offline Instantiation". Table 12.5 and the rest of the description on page 6 of DYE make it clear that the replication group (which includes a table for which schema data is being exported) is quiesced at any master site (including the master definition site) during the period when the schema data is being exported from the master definition site. Specifically, schema data is exported between Steps 2 and 5, and during that period the replication group at any master site (including the master definition site) is quiesced by executing the function "DBMS_REPCAT.SUSPEND_MASTER_ACTIVITY" at Step 2. The activity against the replication group at all master sites (including the master definition site but excluding the new site that is being instantiated) is resumed after the export of the schema data is completed from

the master definition site by executing the function "DBMS_OFFLINE_OG.RESUME_SUBSET_OF_MASTERS" at Step 5.

The Final Office Action further asserts that in DYE a request to perform an operation would be denied while activity at the master definition site is quiesced (suspended). The Final Office Action also asserts that **denying a request** to perform an operation in DYE may be interpreted as equivalent to the feature of Claim 1 of **processing a request** to perform an operation during the transfer period. The Applicants disagree that this is a reasonable interpretation. Nevertheless, in order to further clarify the differences of Claim 1 over DYE, Claim 1 has been amended herein to recite that processing the request to perform the operation comprises performing the operation.

For the reasons set forth above, the Applicants respectfully submit that DYE does not describe or suggest all features of Claim 1, and thus Claim 1 is patentable over DYE under 35 U.S.C. § 102(b). Reconsideration and withdrawal of the rejection are respectfully requested.

B. Independent Claims 45 and 88

Independent Claims 45 and 88 have been amended herein to include features similar to the features of Claim 1 discussed above. Thus, it is respectfully submitted that independent Claims 45 and 88 are allowable over DYE under 35 U.S.C. § 102(b) for at least the reasons set forth above with respect to Claim 1. Reconsideration and withdrawal of the rejections of Claims 45 and 88 are respectfully requested.

C. Dependent Claims 2-25, 46-69, and 91-92

Each of dependent Claims 2-25, 46-69, and 91-92 depends from one of Claims 1, 45, and 88, and thus includes each and every feature of its corresponding independent base claim. Thus, each of Claims 2-25, 46-69, and 91-92 is allowable for at least the reasons given above

for Claims 1, 45, and 88. In addition, the Office Action has indicated that Claims 14-21 and 58-65 include features that would render these claims allowable.

Further, each of Claims 2-25, 46-69, and 91-92 introduces one or more additional features that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those features is not included at this time. Therefore, it is respectfully submitted that Claims 2-25, 46-69, and 91-92 are allowable for at least the reasons given above with respect to Claims 1, 45, and 88.

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IV. CONCLUSION

The Applicants believe that all issues raised in the Final Office Action have been addressed. Further, for the reasons set forth above, the Applicants respectfully submit that allowance of the pending claims is appropriate. Reconsideration of the present application is respectfully requested in light of the amendments and remarks herein.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firms check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,
HICKMAN PALERMO TRUONG & BECKER LLP

Dated: November 17, 2005

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TECHNOLOGY CENTER 2600

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

Paper No. 7

In re Application of:)
Mike Youssefmir, et al.)
Application No.: 09/967,857)
Filed: September 28, 2001)
For: COUPLED UPLINK/DOWNLINK POWER CONTROL AND SPATIAL PROCESSING WITH ADAPTIVE ANTENNA ARRAYS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Permission To Withdraw As Attorney Of Record filed May 13, 2002.

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

The request is **GRANTED**.

All attorneys or record have been withdrawn, leaving no attorneys remaining in the application.

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

Kenneth A. Wieder
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Paper No. 7

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of:
Barratt, et al.
Application No.: 09/967,858
Filed: September 28, 2001
For: A METHOD AND APPARATUS FOR ADJUSTING FEEDBACK OF A REMOTE UNIT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed May 13, 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. 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.

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FISH & RICHARDSON, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

JUL 0 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Barratt, et al.
Application No.: 09/967,863
Filed: September 28, 2001
For: A METHOD AND APPARATUS FOR PROVIDING SPATIAL PROCESSING IN A REMOTE LOCATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed May 13, 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. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: ARRAYCOMM, INC.
2480 N. First Street
Suite 200
San Jose, CA 95131-1014

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ARRAYCOMM/BLAKELY
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
BARRATT, Craig H. et al. :
Application No.: 09/967,863 :
Filing Date: September 28, 2001 :
Docket No.: 13191-007001/P100 :
For: METHOD AND APPARATUS FOR :
PROVIDING SPATIAL :
PROCESSING IN A REMOTE UNIT :

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on July 01, 2005.

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 January 18, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on April 18, 2005.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee, paid the petition fee and made the required statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

This application is being referred to the Publishing Division.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

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

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Alan P. Wolffe	: DECISION ON REQUEST FOR
Patent Number	: 7053264	: RECALCULATION of PATENT
Issue Date	: 05/30/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/967,868	: OF WYETH
Filed	: 09/28/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: Alan P. Wolffe	: DECISION ON REQUEST FOR
Patent Number	: 6919204	: RECALCULATION of PATENT
Issue Date	: 07/19/2005	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/967,869	: OF WYETH
Filed	: 09/28/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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OCT 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of:
Yu Ming MAO, et al.
Application No. 09/967,878
Filed: September 28, 2001
For: METHOD AND APPARATUS FOR IMPLEMENTING A LAYER 3/LAYER 7 FIREWALL IN AN L2 DEVICE

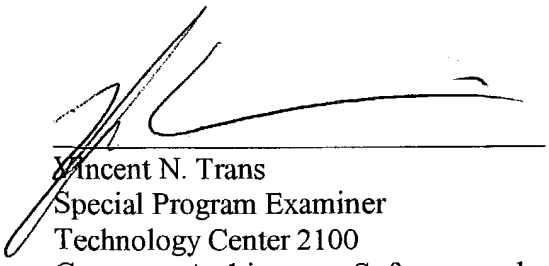
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed July 09, 2004, 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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Paper No. 7

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

In re Application of:
Kasapi, et al.
Application No.: 09/967,882
Filed: September 28, 2001
For: CHANNEL ASSIGNMENTS IN A WIRELESS COMMUNICATION SYSTEM...

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed May 13, 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. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: ARRAYCOMM, INC.
2480 N. First Street
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San Jose, CA 95131-1014

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MILWAUKEE WI 53202-5308

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JUL 05 2005

OFFICE OF PETITIONS

In re Application of
Andersen, et al.
Application No. 09/967,886
Filed: September 28, 2001
Attorney Docket No. 054821-0131

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 22, 2005, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance was **zero (0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 3, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is thirty (30) days.

The Office initially determined a patent term adjustment of thirty (30) days based on an adjustment for PTO delay of ninety (90) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delays of thirty-one (31) and twenty-nine (29) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments of 90, 31, and 29 days have been reviewed and found to be correct. Applicants state that they should have been assessed additional delay for their delay in responding to a final Office action mailed September 17, 2003.

A final Office action was mailed on September 17, 2003. Applicants did not file a reply, and RCE, until March 1, 2004. Accordingly, pursuant to 37 C.F.R. § 1.704(b), applicant delay of sixty-two (62) days should have been assessed.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **zero (0)** days (90 days of PTO delay, reduced by 122 (31+29+62) days of Applicant delay).

No petition fee was required. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

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

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

Enclosure: Copy of adjusted PAIR calculation

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Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

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SEP 20 2004

Technology Center 2100

In re Application of:
Yan KE, et al.
Application No. 09/967,893
Filed: September 27, 2001
For: INTERNET SECURITY SYSTEM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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REDWOOD CITY, CALIFORNIA 94063

Paper No. 7

JUN 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Mitchell D. Trott, et al.)
Application No.: 09/967,896)
Filed: September 28, 2001)
For: ADAPTIVE ANTENNA ARRAY WITH PROGRAMMABLE SENSITIVITY

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Permission To Withdraw As Attorney Of Record filed May 13, 2002.

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

The request is **GRANTED**.

All attorneys or record have been withdrawn, leaving no attorneys remaining in the application.

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

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

cc: ARRAYCOMM, INC.
2480 N. First Street
Suite 200
San Jose, CA 95131-1014

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Paper No. 4

Lyon & Lyon, L.L.P.
633 West Fifth Street
Suite 4700
Los Angeles, CA 90071

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JAN 30 2002

OFFICE OF PETITIONS

In re Application of:
Chiles
Application No. 09/967,910
Filed: September 28, 2001
Attorney Docket No. 267/243

DECISION GRANTING PETITION

This is a decision on the December 27, 2001 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of September 28, 2001, rather than the presently accorded filing date of September 29, 2001.

Petitioner alleges that the application was deposited in Express Mail service on September 28, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL740476619US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of September 28, 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 September 28, 2001.

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

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

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YOUNG & BASILE PC

ANDREW R. BASILE
YOUNG & BASILE, P.C.
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TROY, MD 48084-3107

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of
Eugene L. Moody
Application No. 09/967,945
Filed: October 2, 2001
Attorney Docket No. SMY-141-A

ON PETITION

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

The petition is **GRANTED.**

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

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

The application file is being forwarded to Technology Center AU 3748.

Karen Creasy

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

Petition to Revive

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ANDREW R. BASILE
YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MD 48084-3107

MAILED

JAN 28 2010

OFFICE OF PETITIONS

In re Patent No. 7,574,858 :
MOODY, Eugene I. :
Issue Date: August 18, 2009 : DECISION ON APPLICATION
Application No. 09/967,945 : FOR
Filed: October 2, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. SYM-141-A :

This is in response to the "PETITION TO THE DIRECTOR PURSUANT TO 37 C.F.R. §1.181(3)," filed August 12, 2009, invoking the supervisory authority of the Director, or in the alternative, a petition under 37 CFR 1.182 or 1.183. The petition is properly being treated as an application for patent term adjustment under 37 CFR 1.705(b).

Patentee requests that the United States Patent and Trademark Office add a total of nine hundred ninety-four (994) days to the patent term of the above-identified application, as determined below: (1) a period of adjustment of three hundred seventy-two (372) days for the time elapsed from the day after the date which is four months after the filing of a Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) on October 6, 2003 (PALM date of October 9, 2003) and the decision on the petition mailed February 11, 2005; and (2) a period of adjustment of six hundred twenty-two (622) days for the time elapsed from the day after the date which is four months after the mailing of the petition on February 11, 2005 and the reopening of prosecution after the file being lost by the mailing of an Office Action on February 22, 2007.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On September 19, 2009, the Office mailed a 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 was zero days. PALM records indicate that the issue fee payment was received in the Office on December 17, 2008. 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 December 17, 2008. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

As stated in MPEP 2730, 1.705(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

Regardless, there is no basis for the relief requested. 35 U.S.C. § 154(b) is the provision for adjustment of patent term due to examination delay, but does not, as acknowledged by petitioner, address this situation.

Submission of the $130.00 fee is acknowledged. Since this petition has been treated as an application for patent term adjustment under § 1.705(b), the fee of $200.00 under 37 CFR 1.18(e) is required and an additional $70.00 has been charged to Deposit Account No. 25-0115 pursuant to petitioner's authorization in the first paragraph of the petition.

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

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street, NW
Washington DC, 20037

In re application of : **DECISION ON PETITION**
Atsushi Shimizu et al. : **TO MAKE SPECIAL**
Application No. 09/967,994 : **(ACCELERATED**
Filed: October 2, 2001 : **EXAMINATION)**
For: INFORMATION MEDIATING SYSTEM AND METHOD FOR MEDIATING INFORMATION

This is in response to the petition filed on February 19, 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.

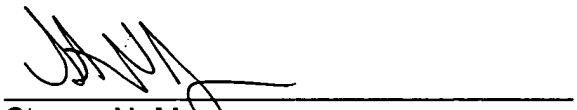
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to 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.**



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

SNM/snm: 11/16/04

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

LSI LOGIC CORPORATION
CORPORATE LEGAL DEPARTMENT
INTELLECTUAL PROPERTY SERVICES GROUP
1551 MCCARTHY BLVD., M/S D-106
MILPITAS, CA 95035

COPY MAILED

JAN 2 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Maad Al-Dabagh et al
Application No. 09/968,008
Filed: October 2, 2001
Attorney Docket No. 01-180 71272 (6653)

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed November 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 3, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $930 extension of time submitted on March 31, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

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

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

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

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

LSI LOGIC CORPORATION
CORPORATE LEGAL DEPARTMENT
INTELLECTUAL PROPERTY SERVICES GROUP
1551 McCARTHY BOULEVARD, M/S D-106
MILPITAS, CA 95035

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of :
Maad A. Al-Dabagh et al :
Application No. 09/968,009 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 01-177 71271 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 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 November 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 3, 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

Fitzpatrick Cella Harper and Scinto
30 Rockefeller Plaza
New York, New York 10112

MAILED

JUN 13 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Of :
Noda, Akihiko :
Application No: 09/968/011 : Withdrawal From Issue
Filed: October 2, 2001 :
Title: Information Processor, Printing Apparatus, :
Information Processing System, Printing :
Method and Printing Program :

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

09/968033

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 32405

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6824993

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.

R Johnson
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Anthony C
SPE

1646
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/968,064	10/01/2001	Shirley J.R. Walker	343355600027	7492

24325 7590 08/11/2008

PATENT GROUP 2N
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114

EXAMINER	
NGUYEN, CINDY	

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
08/11/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Group 2N
JONES DAY
North Point
901 Lakeside Avenue
Cleveland OH 44114

In re Application of:
WALKER et al.
Application No. 09/968,064
Filed: October 1, 2001
For: COMPUTER-IMPLEMENTED COLUMN MAPPING SYSTEM AND METHOD

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 Request for Rehearing or to seek court review of the decision by Board of Patent Appeals and Interferences within a period of two months. A Notice of Abandonment was mailed on 21 May 2008.

A review of the file record indicates that a Request for Rehearing in response to the Board's decision dated 19 March 2008 was timely filed on 19 May 2008. Thus, the Notice of Abandonment mailed 21 May 2008 was premature.

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 application is being forwarded to the Board for consideration of the Request for Rehearing filed 19 May 2008.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 12 2009

OFFICE OF PETITIONS

CHIEF PATENT COUNSEL
UNITED STATES SURGICAL
DIVISION OF TYCO HEALTHCARE GROUP LP
150 GLOVER AVENUE
NORWALK CT 06856

In re Patent No. 6,562,051	: DECISION GRANTING PETITION
Issue Date: May 13, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 09/968,100	: REQUEST FOR CERTIFICATE OF
Filed: October 1, 2001	: CORRECTION
Attorney Docket No. 203-2626 DIV CON VI	:

This is a decision on the petition, filed June 16, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 08/286,878, filed August 5, 1994, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 1, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 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. *See* MPEP 1481.

A petition for acceptance of a claim for late priority 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.

As the 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.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, has been charged to petitioner's Deposit Account No. 21-0550.

Petitioner should note that on the first page of the petition submitted on June 16, 2009, that reference was made to application no. 08/286,872 instead of 08/286,878.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/968,100	10/01/2001	3731	1040	203-2626 DIV CON V1	1	1

CONFIRMATION NO. 7335

CORRECTED FILING RECEIPT

Chief Patent Counsel
United States Surgical
Division of Tyco Healthcare Group LP
150 Glover Avenue
Norwalk, CT 06856

OC000000037286371

Date Mailed: 08/10/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Lee Bolduc, Mountain View, CA;
Thomas A. Kramer, San Carlos, CA;
Brian A. Hodges, Foster City, CA;
Tim McCoy, San Carlos, CA;
John Lunsford, San Carlos, CA;

Power of Attorney:

David Carter--30949
Jeffrey Steen--32063
Peter DeLuca--32978
Raymond Farrell--34816
Joseph Schmidt--36920
Christopher Trainor--39517
George Likourezos--40067
Edward Meagher--41189
Francesco Sardone--47918
Russell Kassner--36183

Domestic Priority data as claimed by applicant

This application is a CON of 08/499,279 07/07/1995 PAT 6,296,656
which is a DIV of 08/286,878 08/05/1994 PAT 5,582,616

Foreign Applications

If Required, Foreign Filing License Granted: 10/25/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/968,100**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SURGICAL HELICAL FASTENER WITH APPLICATOR

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

KEVIN J. ZILKA
SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95112

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JAN 1 5 2002

OFFICE OF PETITIONS

In re Application of
Kouznetsov et al.
Application No. 09/968,106
Filed: September 28, 2001
Attorney Docket No. NAI1P033/01.
For: ANTI-VIRUS POLICY ENFORCEMENT SYSTEM AND METHOD

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 28, 2001.

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

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

The above-identified application was filed on September 28, 2001, with a partially executed declaration and a petition requesting Rule 47 status. In support of the petition, applicants submitted a Statement of Facts and a series of electronic mail correspondence between patent agent Kevin J. Zilka and non-signing inventor Ricky Huang.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Rule 47 applicant indicates the application papers were submitted via electronic mail to the non-signing inventor. Furthermore, applicant indicates the non-signing inventor acknowledged and replied to the initial electronic mail requesting the execution of the declaration. However, there is no way to establish that the non-signing inventor

received the attachments or was able to view the attachments of the electronic mail. When there is a question as to whether a non-signing was presented with application papers it is Office practice to rely upon a paper trail. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d).

Thus, on renewed petition, applicant must establish that the entire application package, including specification, claims and drawings, was presented to the non-signing inventor and he refused to sign. A copy of the application papers may be sent by certified mail return-receipt requested or private courier to the last known address of the non-signing inventor, or, if the inventor is represented by counsel, to the address of the non-signing inventor's attorney. Documentary evidence, including copies of the transmittal cover letters and return mail receipts, may be made part of the record.

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

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OFFICE OF PETITIONS

KEVIN J. ZILKA
SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE, CA 95112

In re Application of :
Kouznetsov et al. :
Application No. 09/968,106 : DECISION GRANTING STATUS
Filed: September 28, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. NAI1P033/01. :
For: ANTI-VIRUS POLICY ENFORCEMENT :
SYSTEM AND METHOD :

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 25, 2002.

The petition is GRANTED.

Rule 47 applicant has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the application papers were mailed via federal express and United States Postal Service. Rule 47 Applicant also provided documents which establish the application papers were received by "R Huang". The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

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

To make the renewed petition timely, deposit account 50-1351 has been charged $110.00 for a one month extension of time under 37 CFR 1.17(a)(1).

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 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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Kouznetsov, et al. :
Application No. 09/968,106 : LETTER
Filed: September 28, 2001 :
Attorney Docket No. NAI1P033/01.219.01 :

This is in response to the petition under 37 CFR 1.47(a) filed on April 15, 2002.

The petition is **DISMISSED AS MOOT**.

Petitioner first filed this petition on October 4, 2001. A decision mailed on January 15, 2002 dismissed that petition. Petitioner responded with a renewed petitions on March 25, 2002 and April 15, 2002.

The matter was ultimately granted in Petitioner's favor in a decision granting rule 47 status on July 5, 2002.

However, the petition filed on April 15, 2002 remained unaddressed. This decision is issued to clarify the record and allow the application to proceed from the Petitions Office and to the proper destination.

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-306-5593.

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

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Technology Center 2100

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United States Patent and Trademark Office
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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of :
Freese et al. :
Application No. 09/968,134 : DECISION ON PETITION
Filed: 09/29/2001 :
Attorney Docket No. M-11831 US :

This is a decision on the petition under 37 CFR 1.181, filed June 5, 2006, to withdraw the holding of abandonment for the above-identified application.

On January 4, 2005, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on April 5, 2005. A Notice of Abandonment was mailed on August 22, 2005.

In the petition, the practitioner asserted that he did not receive the nonfinal Office Action because the USPTO mailed the nonfinal Office action to applicants' previous counsel, Skjerven Morrill LLP. The practitioner stated that applicants properly changed the correspondence address of record from previous counsel to the firm of the practitioner via a customer number spreadsheet on or about September 10, 2002. Applicants submitted a redacted copy of the spreadsheet with the present petition. The practitioner asserted that he believed that the change of address was effective because he received a response to a Request for Status at the correct address on March 29, 2004. A copy of the response accompanies the petition. Furthermore, the practitioner attested to the fact that a search of the file jacket and docket records indicates that the original nonfinal Office action of January 4, 2005, was not received. The practitioner provided the Office with a copy of firm's docket record associated with this application. Therefore, applicants requested that the Office withdraw the holding of abandonment.

A review of the record indicates that the practitioner timely filed a change of correspondence address via the Customer Number with the USPTO. However, on June 29, 2004, USPTO inexplicably changed the correspondence address of record back to the address of previous counsel, Skjerven Morrill LLP. Consequently, the nonfinal Office action was mailed to the wrong address. It is obvious from the record that the practitioner did not receive the nonfinal Office action of January 4, 2005.

The Office has corrected the correspondence address and made it of record. The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2142 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office Action. The three (3) month shortened statutory time period for responding to the nonfinal Office Action will be set to run from the mailing date of the new nonfinal Office Action.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:03282006

DATE : March 28, 2006

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,933,537

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:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE: Nathan Flynn **Art Unit** 2826

Staple Here Only

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,933,537

DATED : AUGUST 23, 2005

INVENTOR(S) : HONG YEE LOW, EWALD KARL MICHAEL GUENTHER AND SOO JIN CHUA

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

Under "Foreign Patent Documents"; Replace:
"JP, 10242315, 9/1998 G01L/23/04" with
-- JP, 10242315, 9/1998 H01L/23/04 --

Under "Other Publications"; Add:
James R. Sheats, et al., "Organic Electroluminescent Devices", 1996, Science vol. 273, pp. 884-888.

In Claim 5, Column 5, Line 46, insert --to-- before "claim 4"

In Claim 8, Column 5, Line 58, insert --to-- before "claim 1"

In Claim 20, Column 8, Line 4; Replace:
"mere" with
-- more --

Approved 02/28/06
FE
Paper Order

MAILING ADDRESS OF SENDER:

Jennifer A. Zanocco
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

PATENT NO. 6,933,537

No. of add'l copies

number

JAN 04 2006

UNITED STATES 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 8

SIEMENS CORPORATION
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iseling, NJ 08830

OCT 23 2003

In re Application of)
Mark Auch et al.)
Application No. 09968,167) DECISION ON PETITION
Filed: September 28, 2001)
Attorney Docket No. 2001P08372US)

This is a decision on the petition filed June 30, 2003, via facsimile transmission, requesting that the holding of abandonment in the above-identified application be withdrawn. .

That the petition is GRANTED.

A non-final Office action was mailed June 5, 2002, setting a three-month shortened statutory period for filing a response. In the apparent absence of a response, the application was held abandoned and a Notice of Abandonment was mailed June 3, 2003.

Petitioner asserts that a response was timely filed. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated October 7, 2002, 2) a copy of a request for an extension of time of one month with authorization to charge the requisite fee to petitioner's Deposit Account No. 50-2388, 3) a copy of the sending unit's report confirming successful transmission of the response on July 10, and 4) a statement in support of the petition under 37 C.F.R. § 1.8(b) signed by attorney David Goren.

That the file record does not include the originally submitted papers. However, the finance record indicates that the $110 fee for a one month extension of time was charged to petitioner's account on October 16, 2002.

The petition satisfies the conditions for accepting a response filed using a certificate of transmission under 37 C.F.R. § 1.8(a) but lost after being received by the USPTO. Accordingly, the request is granted.

That the copy of the response submitted on June 30, 2003, with the request is accepted since the USPTO apparently lost the response originally submitted.

The application filed is being forwarded to the technical support staff for entry of the amendment. From there, it will be returned to the examiner for further examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 WILSHIRE BLVD.
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED

MAY 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Yoram Tal et al.	:	
Application No. 09/968,170	:	DECISION ON PETITION
Filed: September 28, 2001	:	TO WITHFRAW
Attorney Docket No. OIC0110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed May 19, 2006.

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

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/18/10 Paper No.: —

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/968178 Patent No.: 6990164B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: _____

Chris Kelley 2611

JUL 11 2003
PATENT & TRADEMARK OFFICE

#8
RECEIVED
JUL 14 2003
OFFICE OF PETITIONS

Attorney Docket No.: CDST-C163

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile (703) 308-6916 transmitted to the U.S. Patent and Trademark Office on the date shown below.			
Express Mail Label No.:		Name of Person Making the Deposit:	Luz Castillo
Date of Deposit:	7/2/03	Signature of the Person Making the Deposit:	Luz Castillo

In re Application of: Lee

Serial No.: 09/968,186 Examiner: Ahmed, Shamim

Filed: September 28, 2001 Art Unit: 1746

For: METHOD FOR IMPLEMENTING AN EFFICIENT AND ECONOMICAL CATHODE PROCESS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))

The above-identified application became abandoned pursuant to 35 U.S.C. 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 treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five 45) day period set in 35 US.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)

1. Petition fee
   [ ] Small entity-fee $_____(37 CFR 1.17(m)). Applicant claims small entity status.

   [X] Other than small entity-fee $ 1,300.00 (37 CFR 1.17(m)).

2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c)).

   Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g. filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently filed foreign or international applications in Taiwan and the PCT is September 25, 2002.

07/14/2003 AWONDAF1 00000035 09968186
01 FC:1453 1300.00 OP
Adjustment date: 09/08/2003 AKELLEY
07/14/2003 AWONDAF1 00000035 09968186
01 FC:1453 -1300.00 OP
Repln. Ref: 09/08/2003 AKELLEY 0010573600
DAH:230085 Name/Number:09968186
FC: 9204 $1300.00 CR

STATEMENT

The entire delay in filing the required notice of 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.

PAYMENT OF FEES

The full fee due in connection with this communication is provided as follows:

[ ] The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No.: 23-0085 .
A duplicate copy of this authorization is enclosed.

[X] A check in the amount of $ 1,300.00

[X] Charge any fees required or credit any overpayments associated with this filing to Deposit Account No.: 23-0085.

WAGNER, MURABITO & HAO LLP
Two North Market Street, Third Floor
San Jose, California 95113
(408) 938-9060

Respectfully submitted,

Date: 7/2/03

By: _____
John P. Wagner, Jr.
Reg. No. 35,398

US 099681860AP1

Creation date: 02-04-2004
Indexing Officer: BHULUKA - BEKANA HULUKA
Team: OIPEBackFileIndexing
Dossier: 09968186

Legal Date: 09-03-2003

No.	Doccode	Number of pages
1	CTMS	1

Total number of pages: 1

Remarks:

Order of re-scan issued on .....

UNITED STATES 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

WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

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SEP 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Jueng-Gil Lee et al :
Application No. 09/968,186 : DECISION ON PETITION
Filed: September 28, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. CDST-C163 :

This is a decision on the petition, filed July 11, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.

Petitioner states that the instant nonprovisional application became the subject of a counterpart application filed in an eighteen-month country on September 25, 2002. A review of the file record discloses that a Notice to Rescind was received in the USPTO on July 30, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country**, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request had never been made. *See* Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv), 1272 OG 1 (July 1, 2003), available at http://www.uspto.gov/web/patents/patog/week26/.

In the instant application, a notice to rescind was filed prior to the filing date of a counterpart application in an eighteen

month publication country. Therefore, since receipt in the USPTO of the request to rescind prior to the filing date of a counterpart application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 11, 2003 accompanies this decision on petition.

Since this application is not in fact abandoned, for the reason stated above, the petition fee of $1,300 is being credited to Deposit Account No. 23-0085 as authorized.

This application is being forwarded to Technology Center 1765.

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

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/968,192	10/01/2001	Zhicheng Hu	4570	6451

7590 05/31/2005

Engelhard Corporation
101 Wood Avenue
P.O. Box 770
Iselin, NJ 08830-0770

EXAMINER	
TRAN, HIEN THI	
ART UNIT	**PAPER NUMBER**
1764	

DATE MAILED: 05/31/2005

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

td

In re Application of :
Hu et al. : DECISION GRANTING PETITION
Application No. 09/968192 : TO RESET PERIOD FOR REPLY
Filed: October 1, 2001 :
For: EXHAUST ARTICLES FOR INTERNAL COMBUSTION ENGINES

This is a decision on the petition filed on February 17, 2005, requesting that the period for response be reset for the office action mailed April 14, 2004.

On April 14, 2004, a non-final office action was mailed to Applicants. A three month shortened statutory period was given to respond.

On February 17, 2005, the instant petition was filed to formally request that the period for response given in the office action be restarted due to the fact that Applicants never received the office action.

DECISION

Petitioner has included with the instant petition, docketing records showing that the April 14, 2004 office action was never received. The showing is sufficient. Applicants did receive a copy of the office action on February 10, 2005. Accordingly, the petition for re-mailing the office action setting a new period for reply is **GRANTED.**

Because Applicants received the office action on February 10, 2005, the three month period for response will be reset to begin on this date. Extensions of time can be bought to extend this period.

Tom Dunn
SPE, Technology Center 1700
Chemical and Materials Engineering

Engelhard Corporation
101 Wood Avenue
P.O. Box 770
Iselin NJ 08830-0770

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 8

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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FEB 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Bruce Herzig et al :
Application No. 09/968,220 : ON PETITION
Filed: September 29, 2001 :
Attorney Docket No. 3618-28-CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 8, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 9, 2002.

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

The application file is being forwarded to Technology Center 1700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 12 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

Paper No. 6

In re application of : **DECISION ON PETITION**
Chad Cornell et al. : **TO MAKE SPECIAL**
Application No. 09/968,224 : **(COUNTER TERRORISM)**
Filed: October 1, 2001
For: SERVICE, METHOD AND APPARATUS FOR RECEIPT, AUTHENTICATION, TRANSFORMATION AND DELIVERY OF TRANSACTIONS USING A COMPUTER NETWORK

This is in response to the petition filed on September 3, 2002 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI. The delay in treating this petition is sincerely regretted.

The petition is **DISMISSED**.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the application "allows different government departments and organizations to securely, rapidly, affordably and effortlessly exchange electronic information with any other organization, regardless of disparate formats, protocols and technologies." It is argued that this inventive apparatus would counter terrorism by improving data sharing amongst disparate information technology systems so as to "reduce the occurrence of intelligence failures where the pieces of a terrorist puzzle are held by several different government agencies or departments who, because they cannot share information, cannot put the puzzle together to form a clear picture of an imminent threat." This argument is not agreed with. Nothing in the invention acts to directly counter terrorism, but would appear to provide an improvement in information exchange between computer networks. MPEP § 708.02 XI lists examples of types of inventions that would qualify as countering terrorism.

While a grantable petition is not limited to these examples, these examples all clearly act to directly counter terrorism. Thus, the argument by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Petitioner should promptly submit such a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until any such renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

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

KJD/tpl: 2/27/03

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

Timothy J. King
Mykrolis Corporation
One Patriots Park
Bedford, MA 01730

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AUG 11 2003

OFFICE OF PETITIONS

In re Application of :
Kazunori Sudo, et al. :
Application No. 09/968,225 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. MYKP-615 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

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

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

Paper No. 7

Timothy J. King
Mykrolis Corporation
129 Concord Road
Billerica, MA 01821-4600

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JUL 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Kazunori Sudo, et al. :
Application No. 09/968,225 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. MYKP-615 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 14, 2003, to revive the above-identified application.

The petition is **DISMISSED.**

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

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

Petitioner states that they were not aware that the Notice to Correct filing papers was attached to the back of the Official Filing Receipt. Once the second filing receipt was mailed to Applicant,

[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.

they learned that substitute drawings were required. Applicant then retrieved the original filing receipt, found the missing papers, and mailed the corrected drawings. However, the drawings were mailed to the Office one year after the due date.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

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).

In view of the above, a mere oversight of papers does not constitute unavoidable delay.

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1300 petition fee.

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

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

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

By Mail: U. S. Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for 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

KENYON & KENYON
SUITE 600
333 W SAN CARLOS STREET
SAN JOSE, CA 95110

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FEB 27 2002

OFFICE OF PETITIONS

In re Application of :
Jonathan B. Sadowsky et al :
Application No. 09/968,260 :
Filed: September 28, 2001 : DECISION NOTING JOINDER OF
For: METHOD AND APPARATUS : INVENTOR AND PETITION
FOR REORDERING MEMORY : UNDER 37 CFR 1.47(a) MOOT
REQUESTS FOR PAGE :
COHERENCY :

This is a decision on the petition under 37 CFR 1.47(a) filed January 2, 2002. Papers filed on February 6, 2002 included a Declaration signed by previously nonsigning inventor Jonathan B. Sadowsky in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application is being forwarded to Technology Center AU 2185 for examination in due course.

Inquiries related to this decision may be addressed 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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OCT 23 2007

OFFICE OF PETITIONS

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

In re Application of :
Carl Cooper :
Application No. 09/968,291 : DECISION ON PETITION
Filed: October 1, 2001 : TO WITHDRAW
Attorney Docket No. PIXL02900 : 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 1, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Stevens Law Group has been revoked by the assignee of the patent application on May 24, 2007. 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SEYFARTH SHAW, LLP
131 S. DEARBORN STREET
SUITE 2400
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/968,291	10/01/2001	Carl Cooper	PIXL-02900

CONFIRMATION NO. 8412

34051
STEVENS LAW GROUP
P.O. BOX 1667
SAN JOSE, CA 95109

OC000000026149570

Date Mailed: 10/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/24/2007.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

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JAN 18 2006

OFFICE OF PETITIONS

In re Application of :
Xiang Fu, et al. :
Application No. 09/968,299 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. SF/0004.02 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 18, 2005.

In view of the submission of the petition fee in the large entity amount of $1,500, status as a small entity has been removed.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed November 14, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 3600, Art Unit 3624 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES CA 90025

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JUL 0 8 2004

OFFICE OF PETITIONS

Applicant: Wang et al.
Appl. No.: 09/968,351
Filing Date: September 28, 2001
Title: SYSTEM AND METHOD TO IMPLEMENT A COST-EFFECTIVE REMOTE SYSTEM MANAGEMENT MECHANISM USING A SERIAL COMMUNICATION CONTROLLER AND INTERRUPTS
Attorney Docket No.: 42390P12263
Pub. No.: US 2003/0065852 A1
Pub. Date: April 3, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on June 9, 2003 for the above-identified application.

The request is granted.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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JUN 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

Paper No. 6

In re Application of:
Athanasios Kasapi, et al.
Application No.: 09/968,356
Filed: September 28, 2001
For: CHANNEL ASSIGNMENTS IN A WIRELESS COMMUNICATION SYSTEM HAVING SPATIAL CHANNELS INCLUDING GROUPING EXISTING SUBSCRIBERS IN ANTICIPATION OF A NEW SUBSCRIBER

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Permission To Withdraw As Attorney Of Record filed May 13, 2002.

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

The request is **GRANTED**.

All attorneys or record have been withdrawn, leaving no attorneys remaining in the application.

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

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

cc: ARRAYCOMM, INC.
2480 N. First Street
Suite 200
San Jose, CA 95131-1014

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gregg C. Benson
Pfizer Inc.
Patent Department MS 8260-1611
Eastern Point Road
Groton CT 06340

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MAY 21 2007

OFFICE OF PETITIONS

In re Patent No. 7,122,565	:	DECISION ON REQUEST FOR
Vergne et al.	:	RECONSIDERATION OF
Issue Date: October 17, 2006	:	PATENT TERM ADJUSTMENT
Application No. 09/968,371	:	AND NOTICE OF INTENT TO ISSUE
Filed: October 1, 2001	:	CERTIFICATE OF CORRECTION
Docket No. A0000305-01-CFP	:	

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. § 1.705," filed December 15, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at nine hundred twelve (912) days.

The request for reconsideration of the patent term adjustment indicated in 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 912 days.

On October 17, 2006, the above-identified application matured into U.S. Patent No. 7,122,565. The present request for reconsideration, filed December 15, 2006, was timely filed within two (2) months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of six hundred seventy-six (676) days.

Patentees contend that the Office's delay pursuant to 37 CFR 1.703(a)(6) should be calculated as 982 days. The application history has been reviewed and it has been determined that the Patent Term Adjustment of 676 days is incorrect.

Pursuant to 37 CFR 1.703(a)(6), the period of adjustment of the patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

> (6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent issued.

Patentees paid the issue fee on October 8, 2003. Thereafter, the patent issued on October 17, 2006. Thus, the period of adjustment is 982 days, the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid, October 8, 2003, and ending on the date the patent issued, October 17, 2006.

Accordingly, patentees are correct that they are entitled to 982 days under 35 U.S.C. 154(b)(1)(A)(iv), 37 CFR 1.702(a)(4) and 1.703(a)(6). Further, patentees have correctly considered that this period of adjustment overlaps with the 746 day period accorded under 37 CFR 1.703(b). Thus, given the undisputed entry of a period of reduction of 70 days, the patent should have issued with a revised Patent Term Adjustment of 912 days.

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

This matter is being referred to the Certificate 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 NINE HUNDRED TWELVE (912) days

Telephone inquiries regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,122,565 B2

DATED : Oct. 17, 2006

INVENTOR(S) : Vergne et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (912) days

Delete the phrase "by 676 days" and insert – by 912 days--

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

Thomas H. Close, Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

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MAY 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Gary L. VanNoy, et al. :
Application No. 09/968,392 : DECISION DISMISSING
Filed: October 2, 2001 : PETITION
Attorney Docket No. 82879CEB :

This is a decision on the petition filed April 4, 2002, requesting that the above-identified application be accorded a filing date of October 1, 2001, rather than the presently accorded date of October 2, 2001.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on October 1, 2001, before the last scheduled pick up for the day, pursuant to the requirements of 37 CFR 1.10.

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. See § 1.6(a).

(Emphasis supplied). 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 to 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.

A grantable petition under 37 CFR 1.10(d) must include "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." In addition, the showing "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."

The corroborating evidence required by the rule does not accompany the petition filed April 4, 2002. Accordingly, the petition is DISMISSED.

In the instant petition, it is stated "Applicants have not received the Express Mail Receipt from the U.S.P.S. Applicants contacted the U.S.P.S. and requested a copy of the receipt, but were told that one cannot be provided as they do not keep records of the "date-in." However, petitioner has supplied a copy of an Express Mail Log which shows that a package, identified as Express Mail Number EL656969605US, was deposited in an Express Mail Box located on the lobby of Building 83 on October 1, 2001 at 3:45. Petitioner's attention is directed to 37 CFR 1.10(b), which states, in part, that:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

It is unfortunate that applicants chose to deposit a paper as important as a patent application in Express Mail without immediately obtaining an Express Mail receipt showing the desired date of deposit.

It is also noted that the Express Mail number listed on the patent application papers differs from the number listed on the Express Mail Log. The application papers list EL65696960US as the Express Mail number whereas the Express Mail Log lists the Express Mail number as EL656969605US. MPEP 513 states, in part:

> ...If the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto...Since the filing correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition.

Since there is a discrepancy in the Express Mail numbers, it would be improper to grant petitioner's request to accord this application a filing date of October 1, 2001.

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
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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MAY 2 0 2004

OFFICE OF PETITIONS

In re Application of
Vannoy et al.
Application No. 09/968,392
Filed: October 2, 2001
Attorney Docket Number: 82879CEB
Title of Invention: NON-MARKING WEB CONVEYANCE ROLLER AND METHOD OF MAKING SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on July 2, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 3, 2003. A Notice of Abandonment was mailed on February 19, 2004.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES 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, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of :
Uri Benchetrit et al. :
Application No. 09/968,400 : ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. 010417 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 4, 2006, 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 October 5, 2005. A response was filed January 5, 2006, but by Advisory Action of January 30, 2006, petitioner was advised that the response did not place the application in condition for allowance. This application became abandoned on January 6, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the amendment filed January 5, 2006 be considered the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2157 for processing of the RCE.

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

Patricia Faison-Ball
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 an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KOREN ANDERSON
MOLECULAR PROBES, INC.
29851 WILLOW CREEK ROAD
EUGENE, OR 97402-9132

COPY MAILED

JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Wai-Yee Leung et al :
Application No. 09/968,401 : ON PETITION
Filed: September 29, 2001 :
Attorney Docket No.

This is a decision on the petition, filed July 5, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

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ALEXANDRIA, VA 22313-1450
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APR 0 1 2005

TECHNOLOGY CENTER 3600

WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, TX 77042

In re Application of
David L. Hunn
Application No. 09/968,417
Filed: October 1, 2001
For: ANTIBALLISTIC ARMOR

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment filed October 7, 2004.

The petition is **DISMISSED.**

A review of the file record reveals that a Restriction/Election requirement (herein after referred to as Office action) was mailed to applicant on January 13, 2004. Since a response was not received before the expiration of the six-month statutory period for reply of the Office action of July 13, 2004, the application was held abandoned, and a Notice to that effect was mailed on August 17, 2004.

Applicant's petition asserts that the Office action mailed January 13, 2004 was mailed to the previous address of record. However, the address change was not submitted until July 28, 2004. Thus, it is not clear when applicant moved to the new address of record.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around February 13, 2004**. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed January 13, 2004 was not received or placed in the file for application 09/968,417. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around February 13, 2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed January 13, 2004 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/jwk: 3/22/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JUL 21 2005

TECHNOLOGY CENTER 3600

WILLIAMS, MORGAN & AMERSON, P.C.
10333 RICHMOND SUITE 1100
HOUSTON, TX 77042

In re application of
David L. Hunn
Application No. 09/968,417 : DECISION ON REQUEST
Filed: October 1, 2001 : FOR WITHDRAWAL OF
For: ANTIBALLISTIC ARMOR : ATTORNEY

This is a decision on the renewed request filed on March 29, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statements included in the request that, "Application is being transferred to another attorney or agent of record," does not satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1)-(4) or (c)(1)-(6). The attorney may not transfer the application to another attorney or agent on his own accord.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587
Facsimile No.: (571) 273-8300

KJD/slb: 07/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

Law Offices of James E. Walton, PLLC
1169 N. Burleson Blvd.
Suite 107-328
Burleson, TX 76028

In re Application of
David L. Hunn
Application No. 09/968,417
Filed: October 1, 2001

DECISION ON RENEWED PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

For: ANTIBALLISTIC ARMOR

This is a decision on Applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on June 2, 2005.

The petition is **GRANTED**.

A review of the file record reveals that a Restriction/Election requirement (herein after referred to as Office action) was mailed to applicant on January 13, 2004. Since a response was not received before the expiration of the six-month statutory period for reply, the application was held abandoned and a Notice to that effect was mailed on August 17, 2004.

Applicant's petition indicates that the Office action mailed January 13, 2004 was never received. Petitioner has submitted evidence under *Delgar Inc. v. Schuyler* to support withdrawing the holding of abandonment, however, this evidence is considered moot in view of the failure of the Office to timely change the correspondence address associated with this application.

The Office action of January 13, 2004 was mailed to the correspondence address

7676 Hillmont
Suite 250
Houston, TX 77040.

However, as noted in Appendix B of Applicant's petition, the address for customer number 23720 had been changed to

10333 Richmond, Suite 1100
Houston, TX 77042

as of December 13, 2002 (Notice of Customer Number Record Change). The Office action of January 13, 2004 should have been mailed to this address.

It is also noted that the correspondence address (as of May 6, 2005) for this application is now

1169 N. Burleson Blvd.
Suite 107-328
Burleson, TX 76028.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment and return the application to pending status.

for

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/js: 7/27/05

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/10/09 Paper No.: 14

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/968424 Patent No.: 6581672B2

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: _____

Jessica Ward
SPE

1793
Art Unit

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

Paper No. 9

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

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JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of
Clark et al.
Application No. 09/968,426
Filed: September 28, 2001
Attorney Docket No. 3399P065

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 15, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is dismissed as **MOOT.**

An applicant who makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request **before or on the date a counterpart application is filed in an eighteen-month publication country,** 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 filing of the request to rescind 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.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded.

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. 02-2666 as authorized.

This application is being forwarded to Technology Center AU 2153 for examination in due course.

Any inquiries concerning this decision 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

Frances Hicks
Lead Petitions Examiner

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. 5

WILLIAM A. TEOLI, JR.
SYNGENTA CROP PROTECTION, INC.
PATENT AND TRADEMARK DEPT.
410 SWING ROAD
GREENSBORO NC 27409

COPY MAILED

APR 2 4 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Etienne, et al.
Application No. 09/968,428
Filed: October 1, 2001
Attorney Docket No. PB/5-2115/A/C1
FOR: USE OF BIOSENSORS TO DIAGNOSE PLANT DISEASES

This is a decision on the petition filed January 9, 2002 to accord a filing date of October 1, 2001 to the above-identified application.

The application was deposited on October 1,2001. However, on November 9, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (Notice) requiring at least one claim and a newly executed oath/declaration covering the new matter. The Notice stated that the filing date would be the date of receipt of the omitted claim. In addition, the Notice required that petitioners submit an abstract, which was also omitted from the original filing.

In response, petitioners filed, *inter alia*, a paper entitled, "PETITION TO REVIEW REFUSAL TO ACCORD FILING DATE" with required fee, a copy of (1) the specification, including claims and abstract, (2) the date stamped return receipt postcard, (3) the Utility Patent Application Transmittal and Fee Sheet, and (4) the declaration and power of attorney all allegedly filed on October 1, 2001.

The petition presented two grounds for according the above-identified application the requested filing date. First, petitioners argue that the application was complete as filed, as established by the date stamped return receipt postcard. Second, petitioners argue that because the application is a continuation of application no. 09/297,782 and the contents of application no. 09/297,782 were specifically incorporated by reference in the transmittal letter for the above-identified application, filed on October 1, 2001, that the above-identified application should be accorded an October 1, 2001 filing date.

Regarding petitioners' postcard argument, a date stamped return postcard constitutes *prima facie* evidence that the items listed on the postcard were filed on the date that is stamped on the postcard. MPEP 503. Unfortunately, petitioners' return receipt postcard is not itemized. As a result, it cannot be used to establish receipt in the Office of a specific number of pages of

specification or the abstract. It can be used to establish receipt of a declaration and power of attorney because that item is specifically listed. For future reference, petitioners are urged to itemize postcard receipts and list the number of pages of each item, as well.

Regarding petitioners' incorporation by reference argument, a review of the file confirms that the transmittal letter deposited on October 1, 2001, incorporated by reference the entire disclosure of prior application No. 09/297,782.

Based on petitioners' representation that the specification supplied on January 9, 2002, is a part of the disclosure of application No. 09/297,782 and the entire disclosure of application No. 09/297,782 was specifically incorporated by reference in the present application on October 1, 2001, it appears that the claims and abstract were present in the Office on October 1, 2001, albeit in the file of another application, i.e., application No. 09/297,782. Therefore, on petition, the application may be accorded the requested filing date.

The petition is granted.

However, the petition fee will not be refunded, since the petition was required to correct applicants' filing error and to accord the application the requested filing date.

Of course, the examiner is expected to compare the specification supplied on January 9, 2002, to the disclosure of prior application No. 09/297,782 in order to verify that the claims and abstract are, in fact, part of the disclosure of the prior application.

The Office acknowledges receipt of a Preliminary Amendment, filed January 9, 2002.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to October 1, 2001.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

OIPE JC165 JAN 0 9 2002 PATENT & TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/968,428	10/01/2001	Laurent Etienne	PB/5-21115/A

CONFIRMATION NO. 7306

FORMALITIES LETTER

OC000000007048201

William A. Teoli, Jr.
Syngenta Crop Protection, Inc.
Patent and Trademark Dept.
410 Swing Road
Greensboro, NC 27409

RECEIVED NOV 15 2001 PATENT DEPARTMENT GREENSBORO, NC

Date Mailed: 11/09/2001

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated *(37 CFR 1.53(e))*.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $130.00 petition fee *(37 CFR 1.17(h))*. If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

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- The specification does not include at least one claim.
  A complete specification as prescribed by 35 U.S.C. 112 is required.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

OIPE JC165 JAN 0 9 PATENT & TRADEMARK OFFICE

PTO/SB/17 (11-01)
Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 504.00

Complete if Known	
Application Number	09/968,428
Filing Date	October 1, 2001
First Named Inventor	Laurent Etienne
Examiner Name	TBA
Group Art Unit	TBA
Attorney Docket No.	PB/5-21115/A/C1

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number: 50-1744

Deposit Account Name: Syngenta

The Commissioner is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☒ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) ($)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims	48	-20** =	28	x 18	= 504
Independent Claims	2	- 3** =	0	x 84	= -0-
Multiple Dependent					= -0-

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 504.00

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for *ex parte* reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)** ($)

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SUBMITTED BY				Complete *(if applicable)*	
Name *(Print/Type)*	Mary Kakefuda	Registration No. *(Attorney/Agent)*	39,245	Telephone	919 597-5071
Signature	Mary Kakefuda			Date	1/9/2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Paper No. 9

MAIL

JAN 0 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

JENKINS & WILSON, PA
3100 Tower Blvd
Suite 1400
Durham, NC 27707

In re Application of
Clifford L. HANNEL, et al
Application No. 09/968,432
Filed: October 1, 2001
For: METHODS AND SYSTEMS FOR TESTING STATEFUL NETWORK COMMUNICATIONS DEVICES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 22, 2003.

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

The request is **GRANTED**.

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

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

cc: Steven C. Sereboff, Esq.
SoCal IP Law Group
310 N. Westlake Blvd., Suite 120
Westlake Village, CA 91362

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MAIL

Paper No. 11

Jenkins & Wilson, PA
3100 Tower Blvd.
Suite 1400
Durham, NC 27707

JUL 08 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Hannel et al.
Application No. 09/968,432
Filed: October 1, 2001
For: METHODS AND SYSTEMS FOR TESTING STATEFUL NETWORK COMMUNICATIONS DEVICES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT

This is a decision on the petition, filed May 10, 2004, 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. 1.17(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 pertinent prior art. Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 10, 2004 includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

7/1/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0885

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DOERNER, SAUNDERS, DANIEL & ANDERSON, LLP
320 SOUTH BOSTON AVENUE, SUITE 500
TULSA OK 74103

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MAR 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Denison, Gilbert W.	:	
Application No. 09/968,434	:	ON PETITION
Filed: October 1, 2001	:	
Attorney Docket No. 000039.03	:	

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

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE with an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510.00 extension of time fee submitted with the petition on February 14, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The 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 being referred to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Liana Chase
Petitions Examiner
Office of Petitions

Cc: JAMES F. HARVEY, III
ONE LEADERSHIP SQ.
211 N. ROBINSON, STE 501
OKLAHOMA CITY, OK 73102

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

THE CULBERTSON GROUP, P.C.
1114 LOST CREEK BLVD.
SUITE 420
AUSTIN TX 78746

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MAR 27 2007

OFFICE OF PETITIONS

In re Application of :
James P. Jackson et al. :
Application No. 09/968,470 :
Filed: September 28, 2001 : DECISION ON PETITION
Attorney Docket No. 988.1110 : UNDER 37 C.F.R. §1.181(A)
Title: VIDEO GAMING MACHINE :
WITH POP-UP WINDOWS

This is a decision on the petition pursuant to 37 C.F.R. §1.181(a), filed December 1, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 26, 2006, which set a shortened statutory period for reply of three months. An incomplete response was received on August 28, 2006 along with a one-month extension of time (the response contained drawings, but no amendments to the claims or remarks were included). It is noted that August 26, 2006 fell on a Saturday. No further submission was received, and no extension of time under the provisions of 37 C.F.R. §1.136(a) was requested. Accordingly, the above-identified application became abandoned on August 27, 2006. A notice of abandonment was mailed on November 7, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a complete response was submitted to the Office, and that only a portion of which is present in the electronic file. With the present petition, Petitioner has submitted that which was allegedly submitted on August 28, 2006, and it is noted that the submission contains drawings, amendments to the claims and the specification, as well as remarks.

It is further noted that the response contains a certificate of facsimile transmission dated August 28, 2006. Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of facsimile transmission was executed by one Trevor Lind, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

Petitioner has set forth that Mr. Lind is no longer with Petitioner's law firm, and on the second page of this petition, Petitioner has set forth that he

> was in the offices of The Culbertson Group, P.C. along with Mr. Lind while Mr. Lind was taking the actions described in the preceding paragraph (the sending of the facsimile in question). Thus, the undersigned attorney has first hand knowledge of Mr. Lind's actions described above.

It is not clear how Petitioner has firsthand knowledge of the facsimile transmission - it is noted that Petitioner has not set forth that he personally witnessed the occurrence of the facsimile transmission.

On renewed petition, Petitioner should include a statement from Mr. Lind. Alternatively, Petitioner may elaborate on his assertion of his possession of firsthand knowledge of the facsimile transmission, or he may file a petition pursuant to 37 C.F.R. §§1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.

CONCLUSION

Pursuant to the discussion above, the submission is incomplete. It follows that the present petition pursuant to 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.

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

4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES 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

THE CULBERTSON GROUP, P.C.
1114 LOST CREEK BLVD.
SUITE 420
AUSTIN TX 78746

COPY MAILED

JUN 06 2007

OFFICE OF PETITIONS

In re Application of :
James P. Jackson et al. :
Application No. 09/968,470 :
Filed: September 28, 2001 : DECISION ON RENEWED PETITION
Attorney Docket No. 988.1110 : UNDER 37 C.F.R. §1.181(A)
Title: VIDEO GAMING MACHINE :
WITH POP-UP WINDOWS

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.181(a), filed May 10, 2007.

It is noted that Petitioner has submitted a one-month extension of time, which is not required. Consequently, this fee will be refunded to his Deposit Account, in due course.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 26, 2006, which set a shortened statutory period for reply of three months. An incomplete response was received on August 28, 2006 along with a one-month extension of time (the response contained drawings, but no amendments to the claims or remarks were included). It is noted that August 26, 2006 fell on a Saturday. No further submission was received, and no extension of time under the provisions of 37 C.F.R. §1.136(a) was requested. Accordingly, the above-identified application became abandoned on August 27, 2006. A notice of abandonment was mailed on November 7, 2006.

PROCEDURAL HISTORY

The original petition was filed on December 1, 2006, and was dismissed via the mailing of a decision on March 27, 2007.

The decision on then original petition set forth:

> The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a complete response was submitted to the Office, and that only a portion of which is present in the electronic file. With the present petition, Petitioner has submitted that which was allegedly submitted on August 28, 2006, and it is noted that the submission contains drawings, amendments to the claims and the specification, as well as remarks.
>
> It is further noted that the response contains a certificate of facsimile transmission dated August 28, 2006. Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.
>
> Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous facsimile transmission and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of facsimile transmission was executed by one Trevor Lind, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

ANALYSIS

With this renewed petition, Petitioner has submitted a statement of facts from Mr. Lind.

CONCLUSION

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a complete response was timely submitted, pursuant to 37 C.F.R. §1.8.

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 notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. 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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www.uspto.gov

TIMOTHY J. KLIMA
500 NINTH STREET SE
WASHINGTON DC 20003

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of :
Malpensi et al. :
Application No. 09/968,492 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. TK215 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed February 22, 2005.

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 22, 2004. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on June 23, 2004. A Notice of Abandonment was mailed on August 3, 2004.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on March 22, 2004 was never received. A review of the record indicates the Notice of Allowance and Fee (s) Due was mailed to an incorrect correspondence address. Petitioner submitted a change of correspondence address on May 27, 2003. Petitioner has provided a post card receipt which is prima facie evidence that the change of correspondence address was received but not entered. Thus, the Notice of Allowance and Fee (s) Due was improperly mailed.

This application is being forwarded to Art Unit 3761 for re-mailing of the Notice of Allowance and Fee (s) Due to the current correspondence address of record.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN - 8 2005

SUGHRUE, MION ZINN
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington DC 20037-3213

In re Application of:
Murakami et al.
Serial No.: 09/968,506
Filed: October 2, 2001
Attorney Docket No.: Q66467

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on May 25, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed July 1, 2004.

A review of the file history shows that the examiner mailed an Office action to applicants on July 1, 2004, setting a one-month statutory time period for reply. On May 18, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a timely response to the Office action was filed on July 30, 2004, as evidenced by the post card identifying the papers filed and showing a USPTO date-stamped receipt of July 30, 2004.

In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** .

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

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JENKINS, WILSON, TAYLOR & HUNT, P.A.
SUITE 1200 UNIVERSITY TOWER
3100 TOWER BOULEVARD
DURHAM, NC 27707

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark T. Martin	:	
Application No. 09/968,517	:	DECISION GRANTING PETITION
Filed: October 2, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1387.0004C	:	

This is a decision on the petition, filed November 27, 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 October 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1641 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\dec11\968517.wpd

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

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

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Sullivan et al. :
Application No. 09/968,528 : DECISION ON PETITION
Filed: October 02, 2001 : TO WITHDRAW
Attorney Docket No. CING-0037/530.US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 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 Eduardo M. Carreras on behalf of all attorneys of record who are associated with customer No. 54499. 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. As the assignee, Cingular Wireless II, LLC, has intervened in this case, all future communications from the Office will be directed to the above assignee at the first copied address below until otherwise properly notified by the applicant. A courtesy copy of this decision will be mailed to the customer number indicated in the request to withdraw. If the attorneys associated with customer number 64952 desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

A final Office action was mailed in this application on October 27, 2006, which set a three month shortened statutory period for reply. Applicants are advised that failure to timely file a proper reply within the extendable period set in the October 27, 2006 final Office action will result in the abandonment of this application. Also note that an Advisory Action was recently mailed for this application on March 2, 2007.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Cingular Wireless II, LLC
5565 Glenridge Connector
Atlanta, GA 30342

Paul, Hastings, Janofsky & Walker LLP
875 – 15th Street, N.W.
Washington, DC 20005

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ANDRE' M. GIBBS
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of :
Tal, et al. :
Application No. 09/968,556 : DECISION ON PETITION
Filed: September 28, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P061 : 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 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/968,556	09/28/2001	Yoram Tal	5036P061

CONFIRMATION NO. 6831

OC000000020465768

OC000000020465768

Andre' M. Gibbs
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/19/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

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NOV 1 6 2004

OFFICE OF PETITIONS

In re Patent No. 6,734,600 :
Issue Date: May 11, 2004 :
Application No. 09/968,574 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. 1999P8029 :

This is a decision on the petition under 37 CFR 1.183, filed October 4, 2004, which is being treated as a petition under 37 CFR 3.81(b)[1] to accept the addition of the second assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction to permit the addition of assignee Nokia Mobile Phones Ltd., Espoo (FI) on the front page of the Letters Patent. However, Office PALM computer database assignment records do not reflect that an assignment in the name of the assignee sought by the certificate of correction was ever recorded. Accordingly, if reconsideration of this decision is requested, petitioner must supply either the reel and frame number where the recorded assignment appears or supply a copy of the recorded assignment. If the assignment was not recorded, or submitted for recordation, prior to issuance of this patent, a certificate of correction would not be in order. Note MPEP Section 307.

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

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

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

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

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

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

[1] *See* Official Gazette of June 22, 2004

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POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

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AUG 29 2005

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,734,600 :
Issue Date: May 11, 2004 :
Application No. 09/968,574 :
Filed: October 1, 2001 :
Attorney Docket No. 1999P8029 :

This is a decision on the renewed petition under 37 CFR 1.183, filed February 28, 2005, which is being treated as a petition under 37 CFR 3.81(b) [1] to accept the addition of the second assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction to include the second assignee Nokia Mobile Phones Ltd., Espoo (FI) on the front page of the Letters Patent. 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but **prior to issuance of a patent**. A review of the petition discloses that an assignment submitted to add the second assignee is after the date of issuance of this patent. Accordingly, since the corrected assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. Note also MPEP Section 307.

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

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

[1] *See* Official Gazette of June 22, 2004

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4/13/09

Patent No. :6931466
Ser. No. :09968581
Inventor(s) :David Wyland
Issued : 8/16/05
Title : REPROGRAMMABLE INPUT-OUTPUT PINS FOR FORMING DIFFERENT CHIP OR BOARD INTERFACE
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

THOMAS SCHNECK
LAW OFFICES OF SCHNECK & SCHNECK
P.O. BOX 2-E
San Jose, CA 95109-0005

HR

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#20

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MAR 2 2004

Office of the Director
Group 3600

LERNER AND GREENBERG, P.A.
Post Office Box 2480
Hollywood, FL 33022-2480

In re Application of
Friedrich Garzarolli, et al.
Application No. 09/968,584
Filed: October 1, 2001
For: FUEL ELEMENT FOR A PRESSURIZED WATER REACTOR AND METHOD FOR PRODUCING CLADDING TUBES

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on February 4, 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 30, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/18/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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LERNER GREENBERG STEMER, LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

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OFFICE OF PETITIONS

In re Patent No. 6,724,475 :
Issue Date: April 20, 2004 :
Application No. 09/968,587 : ON PETITION
Filed: October 1, 2001 :
Patentee(s): Norbert Benesch, et. al. :

This is a decision on the petition filed October 18, 2004, which is being treated as a petition under 37 CFR 3.81[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 Office sincerely apologizes for the delay in responding to the instant petition.

The petition is **GRANTED**.

In view of this decision, petitioner may request a Certificate of Correction, pursuant to the provisions of 37 CFR 1.323, and submit the $100 Certificate of Correction fee.

The patented file is being referred to the Files Repository.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Temple, et al :
Application No. 09/968,615 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 105773.00241 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed January 30, 2003. Accordingly, this application became abandoned on May 1, 2003. A Notice of Abandonment was mailed on October 6, 2003.

The file is being forwarded to Technology Center 2800, for review of the amendment, submitted on April 7, 2005, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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

MOTOROLA INC
600 NORTH US HIGHWAY 45
W4-39Q
LIBERTYVILLE, IL 60048-5343

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Michael L. Charlier et al :
Application No. 09/968,650 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. CS11275 :

This is a decision on the petition filed January 8, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 23, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 24, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

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

MAILED

APR 23 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Barry A. Brown :
Application No. 09/968,809 :
Filed: October 3, 2001 :
For: METHOD AND APPARATUS FOR DISABLING MOBILE TELEPHONES :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 25, 2003.

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

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

Accordingly, the request is **DENIED**.

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

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

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

09/968820

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/27/06

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6,700,300

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

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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APR 27 2007

Technology Center 2100

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

In re Application of: Heinz TILLMANNS
Application No. 09/968,905
Attorney Docket No. Q66417
Filed: 10/03/2001
For: METHOD AND APPARATUS FOR PROVIDING REDUNDANCY IN A DATA PROCESSING SYSTEM

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed April 25, 2006, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed October 25, 2005.

The petition is **DISMISSED**.

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.*** 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. There is no fee required for a 1.181 petition.

RECENT PROSECUTION HISTORY

(1) On June 7, 2005, a non-final Office action, rejecting all pending claims (1-15), was mailed.

(2) On August 15, 2005, a response to the non-final Office action (including amendments to all independent claims (1 and 12-14)) was filed.

(3) On October 25, 2005, a final Office action, treating claims 1-15 on a new grounds of rejection, was mailed.

(4) On March 27, 2006, an amendment, remarks and request for reconsideration was filed.

(5) On April 19, 2006, an advisory action was mailed.

(6) On April 25, 2006, a notice of appeal and the instant petition, were filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the October 25, 2005 Office action.

ANALYSIS

Initially it is noted that an extension of time for three months and a notice of appeal were filed on April 25, 2006.

A non-final Office action was issued on June 7, 2005, rejecting claims 1-3, 6, 7 and 9-15 under 35 USC § 102(b) as being anticipated by Beshears et al. (US Pat. 5,621,884). Claims 4, 5 and 8 were rejected under 35 USC § 103(a) as being obvious over Beshears ('884) in view of Oberhauser et al. (US Pat. 6,269,442).

A response to the first Office action was timely filed and received in the Patent and Trademark Office on August 15, 2005. In the response, all independent claims 1 and 12-14 were amended. A final Office action was issued October 25, 2005 rejecting all claims (1-15), in particular, rejection claims 1-3, 6, 7 and 9-15 under 35 USC § 103(a) as being unpatentable over Beshears et al. ('884) in view of Seki et al. (US Pat. 5,664,090). In addition, claims 4, 5 and 8 were rejected under 35 USC § 103(a) as being unpatentable over Beshears ('884) and Seki et al. ('090) in view of Oberhauser et al. ('442). These are new grounds of rejection. The Examiner held that the amendment necessitated the new ground(s) of rejection and made this Office action final (see paragraph 20 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 March 27, 2006. The examiner issued an advisory action on April 19, 2006 which denied entry of the proposed amendment and maintained the finality of the last Office 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.

A review of the file record indicates that the new ground(s) of rejection presented by the Examiner in the final Office action of October 25, 2005 was in fact necessitated by the new limitations and/or amendment presented in independent claims 1 and 12-14 on August 15, 2005. All independent claims 1 and 12-14 were amended (at least) by changing the phrase "the change in" to the recitation --if (any) changes exist--, which represents a broadening of the claim recitation. In addition, in (at least) independent claims 1, 12 and 14, the recitation "a copy of ..." was replaced with either --copy of each-- or --copies of-- which represents a narrowing of the claim recitation. Such changes in context clearly change the meaning of the identified phrases

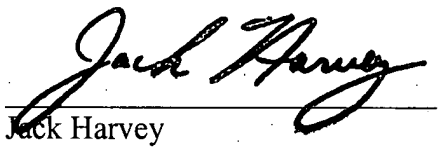
and thus overall claim scope, contrary to Applicant's arguments that the amendments are "purely editorial in nature". This is further evidenced by the Examiner's remarks found on page 3 (first and second paragraphs) of the final Office action which specifically addresses the newly amended language of "if changes exist". Such change in claim scope caused the Examiner to add the reference to Seki et al ('090) and the teachings provided therein to meet the newly amended claim language.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the Office action of October 25, 2005 is **DISMISSED**.

A brief in compliance with 37 CFR 41.37 ***must*** be filed within two months of the date of filing of the Notice of Appeal (37 CFR 41.37(a)), or any extensions thereof (37 CFR 41.37(e)), ***to avoid dismissal of the appeal.***

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.



Jack Harvey
Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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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SEP 30 2002

UR
PAPER NO. 7

In re Application of
Martin Pinto et al.
Serial No. 09/968,931
Filed: September 24, 2001
For: ELECTROLYZER AND METHOD OF USING THE SAME

DECISION
ON
PETITION
UNDER 708.02, V

This is in response to the petition filed March 18, 2002, requesting that the above-identified application be granted Special Status under Sections 708.02 (V) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is **GRANTED.**

Richard V. Fisher

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

Howrey Simon Arnold & White, LLP-OC
301 Ravenswood Avenue
BOX 34
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 15

IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO, NV 89502

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FEB 23 2004

OFFICE OF PETITIONS

In re Application of :
Jerald C. Seelig, et al. :
Application No. 09/968,933 :
Filed: October 1, 2001 :
Attorney Docket No. 619.528 :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 6, 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 October 2, 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 June 3, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Technology Center Art Unit 3713 to await a reply to the nonfinal Office action mailed Janurary 4, 2004. Failure to reply will again result in the abandonment of the application.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Katsuya Samonji et al :
Application No. 09/968,942 :
Filed: October 3, 2001 :
Attorney Docket No. 740819-660 :

This is a decision on the petition, filed October 25, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2828 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

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.
09/968,948	10/03/2001	Takumi Mikawa	740819-662	7375

22204 7590 12/02/2008

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

EXAMINER	
PIZARRO CRESPO, MARCOS D	
ART UNIT	PAPER NUMBER
2814	
MAIL DATE	DELIVERY MODE
12/02/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:34

DATE : March 06, 2008

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6958508

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/Wael Fahmy/

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

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SEP 1 8 2002

OFFICE OF PETITIONS

Applicant: Grimm et al.
Appl. No.: 09/968,967
Filing Date: October 3, 2001
Title: METHOD FOR PRODUCING A GONIOCHROMATIC EFFECT COMPRISING APPLYING TO SKIN A COSMETIC COMPOSITION COMPRISING AT LEAST ONE CONTINUOUS LIPOPHILIC PHASE AND AT LEAST ONE GONIOCHROMATIC PIGMENT
Attorney Docket No.: 05725.0961-00
Pub. No.: US 2002/0064509 A1
Pub. Date: May 30, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on July 30, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains errors in that "Ti" is misspelled as "TI" and that "octyl-" is misspelled as "octyi-" and "octy-" in four instances in the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

Specifically, the error applicant labels "1" in the request is that the published application recites "TI," where it should recite "Ti." Page 4, line 5 of the application as originally filed shows "TI."

The other errors in the publication are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The misspelling of –octyidodecyl-- for "octyldodecyl", –octyidodecanol-- for "octyldodecanol" and –octydodecanol-- for "octyldodecanol" are not material mistakes because they do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

provisional rights that an applicant may seek to enforce upon issuance of a patent. The misspelling of these chemicals are not material errors as they are clearly minor typographical errors.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Sep-07

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Balasinski et al.	:	DECISION ON PETITION
Application Number: 09/968977	:	
Filing Date: 10/29/1999	:	
Attorney Docket Number: 95-C-067-RE(1678-3)	:	

This is a decision on the petition filed on 19 July, 2007, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

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 Petition Under 37 CFR 1.183."

[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.

REVIEW OF FACTS

1. On 29 October, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,640,023.

2. On 20 December, 2001, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Artur P. Balasinski and Kuei-Wu Huang as joint inventors.

3. On 6 July, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply. The Office action stated, *inter alia*, that a supplemental reissue oath or declaration must be filed before the application can be allowed.

4. On 16 January, 2007 (certificate of mailing date 8 January, 2007), a request for a three (3) month extension of time was filed, along with, *inter alia*, a Notice of Appeal.

5. On 19 July, 2007 (certificate of mailing date 16 July, 2007), a request for a four (4) month extension of time was filed, along with, a Request for Continued Examination, and amendment as the submission required under 37 CFR 1.114, were filed. A supplemental reissue declaration was also filed, accompanied by the present petition, whereby petitioners assert that joint inventor Kuei-Wu Huang has failed to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

The petition must be dismissed because the supplemental reissue declaration does not identify the citizenship of the non-signing inventor. Additionally, the residence and mailing address of the non-signing inventor have not been provided. 37 CFR 1.175 requires compliance with the requirements of 37 CFR 1.63. 37 CFR 1.63(a)(3) requires that the country of citizenship of each inventor be identified. Furthermore, the requirement for a statement of the citizenship of each inventor is statutory and cannot be waived. 35 U.S.C. 115. Additionally, 37 CFR 1.63(c)(1) stipulates that the mailing address and the residence of each inventor must be supplied on the declaration.

A renewed petition should be submitted with a supplemental reissue declaration, signed by the signing inventor on behalf of himself and the non-signing inventor, including a statement of

the citizenship, residence city and state or city and foreign country, and the mailing address of all of the inventors.

CONCLUSION

1. The petition is dismissed. As a petition under 37 CFR 1.183 to waive 1.175 is required rather than a petition under 37 CFR 1.47, the petition fee due is $400.00. The balance due of $200.00 will be charged to counsel's deposit account.

2. 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

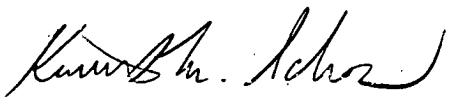
By FAX: (571)273-8300
Attn: Office of Petitions

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

3. The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: GRAYBEAL JACKSON HALEY LLP
155-108TH AVENUE NE, STE. 350
BELLVUE WA 98004-5973

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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OFFICE OF PETITIONS

In re Application of	:	
Balasinski et al.	:	DECISION ON PETITION
Application Number: 09/968977	:	
Filing Date: 10/29/1999	:	
Attorney Docket Number: 95-C-067-RE(1678-3)	:	

This is a decision on the renewed petition filed on November 23, 2007, which is being treated as a renewed petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On October 29, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,640,023.

2. On December 20, 2001, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Artur P. Balasinski and Kuei-Wu Huang as joint inventors.

---

[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.

3. On July 6, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply. The Office action stated, *inter alia*, that a supplemental reissue oath or declaration must be filed before the application can be allowed.

4. On January 16, 2007 (certificate of mailing date January 8, 2007), a request for a three (3) month extension of time was filed, along with, *inter alia*, a Notice of Appeal.

5. On July 19, 2007 (certificate of mailing date July 16, 2007), a request for a four (4) month extension of time was filed, along with a Request for Continued Examination, and amendment as the submission required under 37 CFR 1.114, were filed. A supplemental reissue declaration was also filed, accompanied by the present petition, whereby petitioners assert that joint inventor Kuei-Wu Huang has failed to sign and return the supplemental declaration.

6. On September 20, 2007, the petition was dismissed for lack of a proper supplemental reissue oath or declaration.

7. On November 23, 2007 (certificate of mailing date November 20, 2007), the present renewed petition was filed, along with a new supplemental reissue declaration.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Kuei-Wu Huang on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Huang on the supplemental reissue declaration filed on November 23, 2007.

CONCLUSION

1. The petition is granted.

2. The application is being referred to Technology Center Art Unit 2822 for further processing.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
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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NOV 13 2009

OFFICE OF PETITIONS

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

In re Application of :
Artur P. Balasinski, et al. :
Application No. 09/968,977 : ON PETITION
Filed: October 29, 1999 :
Attorney Docket No. 95-C-067-RE(1678-3) :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 9, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before September 1, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 2, 2009. A Notice of Abandonment was mailed on September 8, 2009. On September 9, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

May 12, 2003

Warren Burnam
Nixon & Vanderhye
1100 North Glebe Road, 8th FI00r
Arlington, VA 22201-4714

In re application of: Shunsuke Yajima DECISION ON PETITION
Serial No.: 09/968,992
Filed: October 3, 2001
For: IMAGE TRANSMITTING APPARATUS

This is a decision on the petitions received on April 11, 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 November 1, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 3, 2002.

On April 11, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed November 1, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed November 1, 2001.

The petition is hereby Granted.

The application will be completed with the documents received April 11, 2003 and released to Technology Center 2622.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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NOV 14 2005

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RANDY SHAY
P O BOX 2607
FAIRFAX, VA 22031

In re Application of
GORDON ET AL.
Appl No.: 09/968,996
Filed: October 03, 2001
For: CUCKOO CLOCK GAMING DEVICE
Attorney Docket Number: 01-020

DECISION

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed November 3, 2004 for failure to timely pay the issue fee as required by the Notice of Allowance mailed June 30, 2004.

A review of the file indicates that the Notice of Allowance and Issue Fees Due was not delivered to applicant and was returned to the USPTO.

In view of the above, the Notice of Abandonment mailed November 3, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to remail the Notice of Allowance. The statutory period that was originally set forth in the Office communication will be restarted to run from the mail date of the newly supplied office action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

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Paper No. 5

Kevin A. Oliver
FOLEY, HOAG & ELIOT LLP
Patent Group
One Post Office Square
Boston, MA 02109

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JAN 2 9 2004

Technology Center 2100

In re Application of:
Scott S. Lawton
Application No. 09/969,012
Filed: October 2, 2001
For: ENHANCED METHOD AND SYSTEM FOR STORING AND MANAGING SEARCH CRITERIA

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

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

The request filed December 11, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R Matthews

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

cc: Scott Lawton
CATCHMAKER
24 Colonial Drive
Chelmsford, MA 01824

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Technology Center 2100

Paper No. 5

Kevin A. Oliver
FOLEY, HOAG & ELIOT LLP
Patent Group
One Post Office Square
Boston, MA 02109

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JAN 29 2004

Technology Center 2100

In re Application of:
Scott S. Lawton
Application No. 09/969,012
Filed: October 2, 2001
For: ENHANCED METHOD AND SYSTEM FOR STORING AND MANAGING SEARCH CRITERIA

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

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

The request filed December 11, 2003 meets all the requirements. Accordingly the request is **GRANTED.**

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

James R Matthews

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

cc: Scott Lawton
CATCHMAKER
24 Colonial Drive
Chelmsford, MA 01824

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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.
09/969,025	10/01/2001	Shivkumar Chiruvolu	2950.40US01	6687

62274 7590 02/29/2008

DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

EXAMINER	
MARCHESCHI, MICHAEL A	
ART UNIT	**PAPER NUMBER**
1793	

MAIL DATE	DELIVERY MODE
02/29/2008	PAPER

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

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

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Mailed: 02-29-08

gm

In re application of
Chiruvolu et al.
Serial No. 09/969,025
Filed: October 1, 2001
For: ALUMINUM OXIDE POWDERS

DECISION
DISMISSING
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 AND MPEP 1205.03 filed June 26, 2007.

The petition takes issue with one of the several reasons presented by the examiner in holding the brief filed January 16, 2007 to be non-compliant under 37 CFR 41.37. The petition, which was filed with a revised appeal brief correcting the other concerns raised by the examiner, requests that the revised brief be accepted.

On September 25, 2007, the examiner issued an examiner's answer in response to the revised brief filed June 26, 2007, implicitly withdrawing the previous objection in question and clearly entering the revised brief.

As the examiner has already properly granted the requested relief, the instant petition is **DISMISSED** as moot.

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

DARDI & ASSOCIATES, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS MN 55402

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Paper No.

C. Douglass Thomas
1193 Capri Drive
Campbell, CA 95008

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AUG 24 2006

OFFICE OF PETITIONS

In re Application of :
C. Douglass Thomas : DECISION ON PETITION
Application No. 09/969,049 :
Filed: October 1, 2001 :
Attorney Docket No. CDTP007 :

This is a decision on the "PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION (37 CFR 1.137(a))," filed August 2, 2006.

The petition under § 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed December 15, 2005. This Office action set a three-month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on June 29, 2006.

The instant petition, including the required response in the form of an amendment and payment of the petition fee, was promptly filed. Petitioner maintains that he the attorney of record did not receive the Office action mailed December 15, 2005 at the correspondence address of record. Petitioner states that he did not become aware of the Office action until after

receiving the Notice of Abandonment on July 4, 2006 and after downloading the Office action from PAIR on July 5, 2006.

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). The instant petition fails to meet requirement (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

The record shows that the Office action was mailed to the correspondence address of record. A review of the application file reveals no irregularities in the mailing of the Office action. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner's showing of non-receipt is not adequate. The showing includes a statement by the practitioner. However, the practitioner does not explicitly assert that a search of the file jacket and docket records indicates that the communication was not received. More importantly, the petition does not include a docket record showing where the non-received Office communication would have been entered had it been received and docketed.

Having not made an adequate showing of non-receipt of the Office action, the petition cannot be granted under § 1.137(a).

Alternative Venue

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

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

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

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

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Paper No.

C. Douglass Thomas
1193 Capri Drive
Campbell, CA 95008

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OFFICE OF PETITIONS

In re Application of :
C. Douglass Thomas : DECISION ON PETITION
Application No. 09/969,049 :
Filed: October 1, 2001 :
Attorney Docket No. CDTP007 :

This is a decision on the "PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION (37 CFR 1.137(b))," filed September 21, 2006.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed December 15, 2005. This Office action set a three-month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 16, 2006. A Notice of Abandonment was mailed on June 29, 2006. By decision mailed August 24, 2006, a petition to revive under 1.137(a) based on unavoidable delay filed August 2, 2006 was dismissed.

Applicant now requests revival based on the less stringent unintentional standard. The petition includes the required statement of unintentional delay and payment of the petition fee. On prior petition, applicant submitted the required response in the form of an amendment. No terminal disclaimer is required. Petitioner has now met all requirements for revival based on unintentional delay.

The Technology Center has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on initial petition filed August 2, 2006.

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. 14

Christopher C. Winslade
McAndrews, Held & Malloy, Ltd.
Ste. 3400
500 West Madison Street
Chicago IL 60661

MAIL

MAR 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Mead C. KILLION
Application Serial No.: 09/969,064
Filed: October 2, 2001
For: HEARING AID HAVING SECOND ORDER DIRECTIONAL RESPONSE

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 12, 2004.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee in response to a Notice of Allowance and Issue Fee Due mailed on July 28, 2003. A Notice of Abandonment was mailed December 10, 2003.

Petitioner alleges to have timely filed a response in the form of a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the RCE transmittal and USPTO receipt that is date stamped October 28, 2003, indicating PTO receipt of the RCE before the expiration of the period for response. A supplemental Information Disclosure Statement was also attached.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to Technology Center's technical support staff for processing the RCE along with the supplemental IDS. From there, the file will be forwarded to the examiner for further consideration in due course.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications
(703) 305-4800

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Commissioner for Patents
United States Patent and Trademark Office
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Director's Office
Group 3700

Paper No. 8

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

In re Application of
GRUENBACHER ET AL.
Appl No.: 09/969,074
Filed: October 02, 2001

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for consideration of the petition under 37 CFR 1.181 for reconsideration of the Notice of Abandonment mailed September 30, 2002 for failure to respond to the office action mailed March 12, 2002. No fee is required.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of the Auto-Reply Facsimile Transmission from the USPTO indicating receipt of the response on April 2, 2002. Furthermore, a review of the file indicates that the original response with the fax received stamp indicating receipt of the response on April 2, 2002 is now in the file.

In view of the above, the Notice of Abandonment mailed September 30, 2002 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

#4

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

KILPATRICK STOCKTON LLP
3737 Glenwood Avenue
Suite 400
Raleigh, NC 27612

In re Application of
John M. MORAN, et al
Application No. 09/969,079
Filed: September 28, 2001
For: METHOD AND SYSTEM FOR PSEUDO-RANDOM TESTING A FAULT TOLERANT NETWORK

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 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 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

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

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

In re Patent No. 6,975,943 :
Issue Date: December 13, 2005 :
Application No. 09/969,111 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. 577232000100 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 24, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 13, 2009 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

/AMW/
April M. Wise
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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/24/2010

Applicant	: Sarat C. Sankaran	: DECISION ON REQUEST FOR
Patent Number	: 7657471	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/969,134	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2558** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS
ON PETITION

FISH & RICHARDSON
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

In re Application of
Pei-Yang Yan
Application No. 09/969,156
Filed: October 3, 2001
Attorney Docket No. 10559-589001

This is a decision on the petition, filed December 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1756 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

cc:
FISH & RICHARDSON
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON DC 20005-3500

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 15

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Herrmann, et al. :
Application No. 09/969,160 : DECISION ON PETITION
Filed: October 3, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 076326-0198 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

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

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

The instant pending application was filed on October 3, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application (application no. 09/845,323) has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 3616 for appropriate action on the amendment filed February 17, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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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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VARNDELL & VARNDELL
106-A S. COLUMBUS ST.
ALEXANDRIA, VA 22314

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JUN 2 5 2004

OFFICE OF PETITIONS

In re Application of :
Yu-Sheng Shiau :
Application No. 09/969,182 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. VX012367 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed February 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 27, 2004.

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

The matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 7

Skjerven Morrill LLP
Three Embarcadero Center
Suite 2800
San Francisco, CA 94111

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AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Lifeng Wu :
Application No. 09/969,186 : ON PETITION
Filed: September 27, 2001 :
Attorney Docket No. M-10098 US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed 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 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Udo Wenning	: DECISION ON REQUEST FOR
Patent Number	: 7645003	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/969,190	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/01/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **420** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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Paper No. 6

THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER CO 80202

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JUL 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Ali et al. :
Application No.09/969,205 : ON PETITION
Filed: October 1, 2001 :
Title of Invention: ACCESSORY AND MOTOR/GENERATOR BELT DRIVE TENSIONER :

This is a decision on the petition filed May 14, 2004 under 37 CFR 1.137(a) to revive the above-identified application. In the alternative petitioner has also filed a petition to revive under 37 CFR 1.137(b).

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.
The Petition to revive under 37 CFR §1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to file a response to the non-final Office Action which was mailed on October 17, 2002. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on January 18, 2003. A Notice of Abandonment was mailed on May 28, 2003.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)

A grantable petition under 37 CFR § 1.137(a) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995

[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.

or if the application is a design application.

Pursuant to petitioner's request deposit account 07-0475 is being charged the $110.00 unavoidable petition fee.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

In the present petition, petitioner indicates during the period in which a timely response could have been submitted petitioner was overly burdened with work and many duties unrelated to patent prosecution. Petitioner also states there was an error in the automated calendaring system as well as a disruption to the manual backup system which lead to the application being misplaced. Lastly petitioner indicates a move to new office space further exacerbated the situation and resulted in the failure of critical dates and reminders being reported to Petitioner.

Petitioner's arguments have been considered but are unpersuasive because petitioner has failed to make a sufficient showing of unavoidable delay. Petitioner indicates he was burdened with work and duties unrelated to patent prosecution. Petitioner's preoccupation with other matters including moving to a new office goes to the fact that petitioner was not treating the prosecution of this application as his most important business. Petitioner's preoccupation with other matters does not constitute unavoidable delay.[2]

---

[2]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir.1982).

As to petitioner's contention there was an error in the automated calendaring system as well as a disruption in the manual backup system, petitioner has failed to provide sufficient information regarding the tracking system in place. Petitioner should provide information as to who makes entry into the both the automated calendaring system and the manual backup system, did the person enter the reply due date to the office action in both systems? Petitioner should provide an explanation as to why both systems failed and how they typically work. Petitioner should state whether the automated calendaring system has ever failed before and if so how many times.

Accordingly, the showing of record is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. 151 and 37 CFR 1.137 (a).

37 CFR 1.137(b)

A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional.

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

This petition is hereby **GRANTED**.

Deposit account 07-0475 is being charged the $1330.00 unintentional petition to revive fee.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petition 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. 7

Michael T. Konczal
Godwin Gruber, P.C.
Suite 655
801 E. Campbell Rd.
Richardson, TX 75081

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Kaushal Thakker :
Application No. 09/969,253 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. P14899 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed November 7, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2002.

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 currently of record until such time as appropriate instructions are received to the contrary.

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: Sidney L. Weatherford
6300 Legacy Drive
MS/EVW2-C-2
Plano, Texas 75024

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WASHINGTON DC 20005-3500

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JUL 16 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hongyong Zhang et al :
Application No. 09/969,268 :
Filed: September 24, 2001 :
Attorney Docket No. 07977-143002 :

This is a decision on the petition, filed July 16, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 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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052005

KNOBBE, MARTENS, OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAY 20 2005

In re Application of:
Masakazu Mesaki
Serial No.: 09/969,291
Filed: October 1, 2001
Attorney Docket No.: IIDAP16.001AUS

DECISION *SUA SPONTE*
WITHDRAWING HOLDING
OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A decision on appeal by the Board of Patent Appeals and Interferences (BPAI) was mailed on March 28, 2005 affirming the final rejections by the examiner of all pending claims in the application. A Notice of Abandonment was mailed on April 6, 2005.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status in view of the fact that the appellant has two months from the date of the BPAI decision to seek review of the decision by the court or to commence a civil action. Further the appellant has informed the examiner that an action will be taken by the appellant by May 28, 2005, the expiration date of the two-month time period from the date of the BPAI decision.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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SEP 19 2008

In re Application of	:	
Rajesh S. Agarwalla, et al.	:	
Application No. 09/969,294	:	ON PETITION
Filed: September 28, 2001	:	
Attorney Docket No. RSW920010139US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 23, 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 July 24, 2007. The Notice of Abandonment was mailed December 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

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

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 Terri Williams at (571) 272-2991.

The application file is being forwarded to Technology Center AU 2157 for appropriate action on the concurrently filed Notice of Appeal.

Chris Bottorff
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Kyocera Wireless Corp.,
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

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MAR 15 2004

OFFICE OF PETITIONS

In re Application of :
Rajaram et al. :
Application No. 09/969,305 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. UTL 00108 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 2, 2004, to accept an unintentionally delayed claim for the benefit of prior applications.

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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 78(a)(3)."

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 26, 2002. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

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

Petitioner has failed to satisfy (i) above. Specifically, a proper amendment adding the priority claims has not been filed. Rule 78 may not be used to incorporate by reference material which

was not previously incorporated by reference. In this case, the original application only properly incorporates by reference 09/927,131 and 09/916,900. The original application improperly lists application no. 09/916,460 as "09/9169,460." The original application does not mention nor incorporate by reference application no. 09/926,900.

The petition cannot be granted until a proper amendment is filed.

Petitioner may wish to note that Office records fail to indicate the receipt of a clean copy of the amendment.

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

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES 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

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Rajaram et al. :
Application No. 09/969,305 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. UTL 00108 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 20, 2004, to accept an unintentionally delayed claim for the benefit of prior applications.

The petition is **granted**.

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time ended on November 26, 2002. The priority claims at issue were not made by this date. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application . . . may be accepted if the reference identifying the prior-filed application . . . was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the
benefit of a prior-filed application must be accompanied by:

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

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3).

The correction of the typographical error for application number 09/916,460, and the incorporation by reference of the application, will be allowed.[1]

---

[1] See In re Fouche, 169 U.S.P.Q. (BNA) 429 (CCPA 1971).

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2683 for appropriate action on the amendment submitted May 20, 2004, including consideration by the examiner of the claims for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

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

Charles Pearson
Director
Office of Petitions

Attached: 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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of :
Staszewski et al. :
Application No. 09/969,307 : DECISION ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. TI-32077 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 23, 2007. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 24, 2007. This decision precedes the mailing of a Notice of Abandonment.

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 $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU2611 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

PFIZER INC.
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Chenard et al.
Application No. 09/969,318
Filed: October 2, 2001
Attorney Docket No. PC10762B

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 5, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2002. A Notice of Abandonment was mailed on January 14, 2004.

One requirement set forth by the Notice was the $130.00 late declaration surcharge. Accordingly, an additional $130.00 will be charged to petitioner's deposit account as authorized.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARRINGTON & SMITH, LLP
4 Research Drive
Shelton, CT 06484-6212

FEB 16 2006

In re Application of:
Humphrey J. Maris
Serial No.: 09/969,336
Filed: October 1, 2001
Attorney Docket No.: 905.8767.U2(US)

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on March 18, 2005. There is no fee for this petition.

The petition is DENIED.

An Office action (a restriction requirement) was mailed to applicant on July 29, 2002. A Notice of Abandonment was mailed on March 8, 2005. The application was held abandoned for failure to timely file a proper reply to the Office action mailed on July 29, 2002.

Petitioner asserts that:

1) On August 6, 2002, petitioner called the examiner and made an oral election of the claims of Group I (claims 1-15, 31-45 and 62) with traverse.

2) On March 21, 2003, the examiner telephoned petitioner to inquire whether it was the intention of petitioner to abandon the application. After examiner was reminded of the oral election, examiner stated that the application was still pending and that examiner would soon issue an office action on the merits.

As evidence of these assertions, petitioner provided:

1) A letter from the petitioner to the assignee dated August 6, 2002 referring to the oral election.

2) A letter from the petitioner to the assignee dated March 22, 2003 referring to the petitioner's telephone conversation with the examiner on March 21, 2003.

Although the evidence might suggest an oral election was made on 08/06/02, once the restriction requirement was written and mailed on 07/29/02, applicant was required to provide a **written** response in order to prevent abandonment of the application.

A shortened statutory period of ONE month was set for response to the Office action of July 29, 2002. Extensions of the shortened statutory period under 35 U.S.C. § 133 may have been obtained under 37 C.F.R. § 1.136 provided the extension did not go beyond the 6-month statutory period from the date of the Office Action. The 6-month statutory period from the date of the Office action expired January 29, 2002. When no reply with the appropriate extension of time was filed within the 6-month statutory period, the application was abandoned as of August 30, 2002.

It is recognized that: 1) on the transmittal form submitted with the filing of the application, applicant requested the amendment of page 1, lines 12-21 and the cancellation of claims 16-30 and 46-60; 2) the amendments requested on the transmittal form were not entered by the Technical Support Staff and overlooked by the examiner; and 3) the cancellation of claims 16-30 and 46-60 eliminated group II of examiner's 3-way restriction requirement. However, none of the above has any effect on the abandonment of this application.

37 C.F.R. § 1.2 states that:

> 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.

The examiner does not remember the oral election asserted to be made on August 6, 2002. Although examiner does have some recall of a conversation with the petitioner (apparently the conversation that took place on March 21, 2003), examiner's recall of the conversation does not agree with petitioner's recall of the conversation. Based exclusively on the written record in the Office, there was no timely response filed to the Office action of July 29, 2002. Based exclusively on the written record in the Office, the abandonment in this application was proper.

The application remains abandoned. Applicant might wish to consider the filing of either 1) a petition for revival of the application for unavoidable abandonment under the provisions of 37 C.F.R. § 1.137(a) or 2) a petition for revival of the application for unintentional abandonment under the provisions of 37 C.F.R. § 1.137(b).

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON CT 06484-6212

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NOV 30 2006

OFFICE OF PETITIONS

In re Application of :
Maris, Humphrey J. :
Application No. 09/969,336 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. 905.8767.U2 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Response to Office Action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2800 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

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER CO 80202

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APR 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Alexander Serkh	:	
Application No. 09/969,341	:	ON PETITION
Filed: October 1, 2001	:	
Attorney Docket No. T00-094A	:	

This is a decision on the petition, filed September 30, 2005, under 37 CFR 1.181(a) to Withdraw Holding of Abandonment or in the alternative a petition to Revive under 37 CFR 1.137(a) as unavoidable or a petition under 37 CFR 1.137(b) as unintentional delay.

The petition under 37 CFR 1.181(a) is **GRANTED**.

The petition under 37 CFR 1.137(a) and 37 CFR 1.137(b) is dismissed in view of the granting of the petition under 37 CFR 1.181(a).

The application was held abandoned for failure to timely reply to the Nonfinal Office action mailed January 30, 2003.

The petition states that a reply was timely submitted by facsimile transmission on April 30, 2003. To support this assertion, petitioner has submitted a copy of the response, along with confirmation of successful transmission on April 30, 2003.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

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

This application is being forwarded to Technology Center AU 3682.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 5

DR. BENJAMIN ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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MAY 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Giovanella et al.	:	
Application No. 09/969,374	:	ON PETITION
Filed: 1 October, 2001	:	
Attorney Docket No. D6030D/C	:	

This is a decision on the petition under 37 CFR 1.182, filed on 19 February, 2002, to change the order of the names of the inventors.

The petition is **dismissed**.

Although petitioners request that joint inventor Knight be the first-named inventor, petitioners have not stated the order of the names of the other inventors. As the desired order of inventors' names is not clear from the present petition, the petition is dismissed without prejudice for reconsideration.

Any renewed petition should be accompanied by a statement reciting the desired order of the names of the inventors.

The application file will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioners' response to this decision. If no reply to this decision is received within TWO (2) MONTHS, the application file will be forwarded to Technology Center 1600 for examination in due course with the present order of inventors' names.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

DWood

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 14, 2006

TO SPE OF : ART UNIT 1614 Blessing M. Fubara

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/969,431 Patent No.: 6998115 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**.

Antonio Johnson
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

MICHAEL P WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

M P Woodward 1615

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

2673

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

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MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Pai, Feng-Ting
Application No. 09/969,435
Filed: October 1, 2001
Attorney Docket No. TOP 306

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 26, 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 30, 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.

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

The amount of the filing fee is determined at the time the fee is paid in full. At the time the petition was filed, the basic filing fee was $770.00 rather than $740.00. Therefore, an additional $30.00 has been charged to petitioner's deposit account as authorized.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 11

STINSON MORRISON HECKER
ATTN: PATENT GROUP
1201 WALNUT STREET
SUITE 2800
KANSAS CITY, MO 64106-2150

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NOV 17 2003

OFFICE OF PETITIONS

In re Application of :
John R. Carpenter et al :
Application No. 09/969,451 : NOTICE
Filed: October 2, 2001 :
Attorney Docket No. PHSC.86428 :

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 1614.

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

The opinion in support of the petition decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE

BOARD OF PATENT APPEALS AND INTERFERENCES

MAILED

JAN 31 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

In re Application of

JOHN CARPENTER and RICHARD MIHALIK

Application No. 09/969,451

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.183 filed January 3, 2006 to Suspend the Rules and Reinstate the Request for Oral Hearing.

Pursuant to 37 CFR § 1.181(g) and 37 CFR § 41.3, the Director has delegated authority to decide petitions under 37 CFR § 1.183 from actions of the Board of Patent Appeals and Interferences or of personnel at the Board of Patent Appeals and Interferences to the Chief Administrative Patent Judge of the Board of Patent Appeals and Interferences. MPEP § 1002.02(f)(4)(b).

The petition is GRANTED

FINDINGS

1. On June 9, 2005, Petitioner filed a combined Reply Brief and Request for Oral Hearing.

2. On December 19, 2005, the Board entered a "Order Denying Request for Oral Hearing" stating on page 1 that:

> Effective September 13, 2004, 37 CFR § 41.47(b) was presented to provide that a request for an oral hearing must be filed in a separate paper.
>
> Since the request for oral hearing was not filed in a separate paper as required by 37 CFR § 41.47(b), the appellants' request for an oral hearing cannot be granted...

3. On January 3, 2006, Petitioner timely filed the subject petition stating:

> Applicant respectfully requests that the Board suspend the separate paper requirement of 37 C.F.R. § 41.47(b). Applicant submits that an extraordinary situation exists and that justice require3 the separate paper requirement be suspended or waived in order for applicant to be able to have an Oral Hearing.
>
> An Oral Hearing is needed for the appeal of the present application for the following reasons: The Examiner has requested certain experiments be performed in order to show the unexpected results of the formulation of the present invention. Applicant has presented numerous test results showing the unexpected results of the formulation of the present invention. These test results include the specific experimental tests requested by the Examiner. Nevertheless, the Examiner continues to state that the requested experiments have not been performed. There is a long paper trail of Office Actions, Responses to Office Actions, an Appeal Brief, an Examiner's Answer, and a Reply Brief that discuss the experiments performed and the unexpected results obtained. Oral interaction in the form of an Oral Hearing would be beneficial to streamline the paper trail and explain in an interactive setting how the experiments performed are those requested by the Examiner and why the results obtained are unexpected. In addition, certain

statements made by Applicant have been taken out of context by the Examiner, and an Oral Hearing would allow Applicant the opportunity to explain the context in which these statements were made. For the foregoing reasons, justice requires that Applicant be given the opportunity to have an Oral Hearing to discuss the experiments performed, clarify the context in which certain statements were made, and answer questions in an interactive setting.

4. 37 CFR § 1.183 reads as follows:

> § 1.183 Suspension of rules.
> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f).

5. The pertinent portions of 37 CFR § 41.47 read as follow:

> § 41.47 Oral hearing.
> (a) An oral hearing should be requested only in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal. An appeal decided on the briefs without an oral hearing will receive the same consideration by the Board as appeals decided after an oral hearing.
>
> (b) If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner's answer or supplemental examiner's answer.

DISCUSSION

37 CFR § 1.183 provides 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 on petition of the interested party, subject to such other requirements as may be imposed (see Finding No. 4).

The requirement to file a request for oral hearing as a separate paper is provided for in 37 CFR § 41.47(b) (see Finding No. 5). As noted above, "[a]n oral hearing should be requested only in those circumstances in which appellant considers such a hearing necessary or desirable for a proper presentation of the appeal" (id.).

Petitioner states that "[t]he Examiner has requested certain experiments be performed in order to show the unexpected results of the formulation of the present invention. Applicant has presented numerous rest results showing the unexpected results of the formulation of the present invention. These test results include the specific experimental tests requested by the Examiner. Nevertheless, the Examiner continues to state that the requested experiments have not been performed" (see Finding No. 3). Thus, petitioner argues that the oral hearing is necessary "to streamline the paper trail and explain in an interactive setting how the experiments performed are those requested by the Examiner and why the results obtained are unexpected" (id.).

In the interest of justice, the petition under 37 CFR § 1.183 to Suspend the Rules and Reinstate the Request for Oral Hearing is GRANTED.

The application will be forwarded to the appropriate personnel for the scheduling of an oral hearing.

Michael Fleming
Chief Administrative Patent Judge
Board of Patent Appeals and Interferences

SUSAN WHARTON BELL
Stinson Morrison Hecker LLP
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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FEB 13 2008

In re Application of :
Gene Cheung et al. :
Application No. 09/969,474 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. HP-10012366.CON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed January 13, 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 April 14, 2006. A Notice of Abandonment was mailed on October 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

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.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: John P. Wagner, Jr.
Westridge Business Park
123 Westridge Drive
Watsonville, CA 95076

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)
6778090	2004-08-17	09969497	2001-10-02	1019.22

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	/makammer34197/	Date (YYYY-MM-DD)	2008-08-26
Name	Mark A. Kammer	Registration Number	34197

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. 6778090
Issue Date: August 17,2004
Application No. 09969497
Filed: October 2,2001
Attorney Docket No. 22421.22

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

This is a decision on the electronic petition, filed August 26,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 26,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Kilpatrick Stockton
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

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FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of
Michael Spratling
Application No. 09/969,499
Filed: October 2, 2001
Attorney Docket No. 16239-011144795-264567

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed December 2, 2002, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 3, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475 extension of time submitted with the petition on December 2, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being forwarded to Technology Center AU 1774 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
www.uspto.gov

Paper No. 6

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DEC 22 2003

Technology Center 2100

FOLEY HOAG, LLP
Patent Group, World Trade Center West
155 Seaport Blvd
Boston, MA 02110

In re Application of
Scott S. LAWTON
Application No. 09/969,502
Filed: October 2, 2001
For: METHOD AND SYSTEM FOR ORGANIZING SEARCH RESULTS INTO A SINGLE PAGE SHOWING TWO LEVELS OF DETAIL

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

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

The request is **GRANTED**.

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

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

cc: Scott Lawton
Catchmaker
24 Colonial Drive
Chelmsford, MA 01824

UNITED STATES 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

Lance K. Ishimoto
Lexicon Genetics Incorporated
4000 Research Forest Drive
The Woodlands TX 77381

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JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Wade D. Walke and John Scoville :
Application No. 09/969,515 : DECISION ON PEITTION UNDER
Filed: October 2, 2001 : 37 C.F.R. §1.137(b)
Attorney Docket No.: LEX-0249-USA :
Title: NOVEL HUMAN PROTEASES AND :
POLYNUCLEOTIDES ENCODING THE :
SAME

This is a decision on the petition filed on September 3, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed February 7, 2003, which set a shortened statutory period for reply of three (3) months. On July 15, 2003, a two-month extension of time was received,[2] along with an after-final amendment. The after-final amendment failed to place the application in condition for allowance, and on August 20, 2003, an advisory action was mailed. No further responses were received, and no further extensions of time pursuant to 37 CFR 1.136 were obtained. Accordingly, the above-identified application became abandoned on July 8, 2003. A Notice of Abandonment was mailed on August 29, 2003.

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1 A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

2 The petition for a extension of time contained a certificate of mailing dated July 7, 2003.

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

With this petition, the petitioner submitted a response in the form of a Notice of Appeal, submitted the appropriate fee, paid the petition fee (both have been charged to Petitioner's Deposit Account, as authorized in the petition), and made a statement that is being construed as the proper statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The Notice of Appeal filed on September 3, 2003, has been entered and made of record. Accordingly, **the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of this decision**.

The application file is being forwarded to Technology Center 1600 for processing of the Notice of Appeal.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LISA A. HAILE, PH. D.
GRAY CARY WARE & FREIDENRICH LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Philip A. Beachy :
Application No. 09/969,520 : ON PETITION
Filed: September 24, 2001 :
Attorney Docket No. JHU1670-1 :

This is a decision on the petition, filed February 4, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1636 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

THOMPSON & KNIGHT LLP
PATENT PROSECUTION DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1200
AUSTIN TX 78701

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JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Surendra N. Naidoo et al :
Application No. 09/969,521 : DECISION GRANTING PETITION
Filed: October 2, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 020775.000011 :

This is a decision on the petition, filed June 25, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 7, 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 setting forth the projected publication date of April 3, 2003 was previously mailed to applicant.

The "General Power of Attorney" filed concurrently with the instant petition is not acceptable since compliance with 37 CFR 3.73(b) has not been satisfied. See the attached blank Certificate under 37 CFR 3.73(b). In view of the nonentry of the power of attorney, future correspondence will be directed to the address of record until such time as the proper power of attorney documentation is submitted. A courtesy copy of this decision is being mailed to the petitioner herein.

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 2635 for examination in due course.

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

ATTACHMENT TO PETITIONER: Blank Certificate under 37 CFR 3.73(b)

cc:

Conley Rose & Tayon PC
5700 Granite Parkway, Suite 330
Plano TX 75024

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

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In re Application of :
Jay K. Sato, et al. :
Application No. 09/969,526 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 67134-5051 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 12, 2008.

The petition is GRANTED.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 17, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 17, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 18, 2008. On May 12, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on May 14, 2008.

The Revocation and Power Attorney filed May 12, 2008 is **not** acceptable, since the power is not signed by the applicant for patent or the assignee of the entire interest of the applicant in accordance with 37 CFR 1.32.

In accordance with 37 CFR 1.34(a), the signature of Brian D. Martin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Martin desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

Petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRIAN D. MARTIN
AVERY DENNISON CORPORATION
150 N. ORANGE GROVE BLVD.
PASADENA, CA 91103

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While 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, 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 10

Townsend & Townsend and Crew LLP
Two Embacadero Center, 8th Floor
San Francisco, CA 94111-3834

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of :
Farrens et al. :
Application No. 09/969,550 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No. 018419-011810US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 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 in reply to the non-final Office action mailed September 18, 2002, which set a period for reply of (1) month from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on October 19, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2818 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

February 14, 2005

Benjamin E. Urcia
Bacon & Thomas
625 Slaters Lane – Fourth Floor
Alexandria, Va. 22314

In re Application of:
Kenneth J. Myers
Serial No: 09/969,583 On Petition
Filing Date: October 4, 2001
For: SYSTEM AND METHOD FOR IMPUTTING CONTOURS OF A THREE-DIMENSIONAL SUBJECT TO A COMPUTER

In response to the petitions received November 21; 2003 and December 15, 2004, 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 Corrected Application Papers mailed November 6, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned January 8, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Corrected Application Papers on January 7, 2002.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

The application has been completed with the documents received December 15, 2004 for release to Technology 2873.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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US Patent Operations/RNM
Dept 4300, M/S 28-2-C
AMGEN INC
One Amgen Center Drive
Thousand Oaks, California 91320-1799

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MAR 2 7 2007

OFFICE OF PETITIONS

In re Application of
Kay et al.
Application No. 09/969,739
Patent No. 7,087,224
Filed: October 2, 2001

: DECISION DISMISSING PTA
:APPLICATION

This decision is in response to applicant's APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b) filed on July 27, 2006 requesting that the Office adjust the PTA calculation from a determination of 633 days to a determination of 634.

Patentees' application for PTA is **DISMISSED AS UNTIMELY.** The file will be returned to the file repository for proper storage.

Patentees assert that the Office erred in assessing a seven-day reduction for the submission of an amendment after final on September 1, 2004. Patentees assert that the reduction of seven days is in error because patentees have an express mail label showing a date stamp of August 31, 2004.

The Office will not look into the merits of patentees' arguments because the application is untimely. Specifically, applicants have labeled their application as an application under 37 CFR 1.705(b) however, an application for PTA filed under 37 CFR 1.705(b) must be filed prior to payment of the issue fee. The Office notes that the issue fee was paid on 12/22/2004. The application was not filed until July 27, 2006. Accordingly, the application cannot be considered as being timely.[1]

Patentees are given thirty days to reply to this decision. No extensions of time are available under 37 CFR 1.136.

The Office has assessed the $200.00 fee associated with this application. No additional fees are required by the Office in considering this application.

[1]The Office notes that the Office cannot consider such request as being filed under 37 CFR 1.705(d) because that section states that any issues that were raised our could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely to those issues.

Application No. 09/969,739

Any questions concerning this decision 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:011706

DATE : January 17, 2006

TO SPE OF : ART UNIT 2859

SUBJECT : Request for Certificate of Correction on Patent No.: 6,857,193 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:

G. BRADLEY BENNETT
PRIMARY EXAMINER
1.17.6

SPE: Diego F.F. Gutierrez **Art Unit** 2859

OIPE IAP74 DEC 27 2005 PATENT & TRADEMARK OFFICE

Attorney's Docket No.: 108612-124882 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Kallesen et al.

Application No.: 09/969,747

Filed: 10/02/2001

Patent No.: 6,857,193 B2

Issued: 02/22/2005

For: LOCATION PROJECTOR APPARATUS AND METHODS

Examiner: G. Bradley Bennett

Art Group: 2859

Confirmation No. 9623

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, PO Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Typed or Printed: Heather L. Adamson

Signature: [signature] Date: 12/27/2005

Approved
1.17.6

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

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Upon review of the above-referenced Letters Patent, Applicant noted errors that are the mistake of the Applicant and the U.S. Patent and Trademark Office. Those errors are as follows:

In the Drawings:

Fig. 1A, reference numeral "123" should be deleted;

Fig. 1B, reference numeral "123" should be deleted;

Fig. 2A, reference numeral "123" should be deleted;

Fig. 2B, reference numeral "123" should be deleted;

Fig. 3C, reference numeral "123" should be deleted;

Fig. 4A, reference numeral "123" should be deleted, reference numeral "170" should read --140--, and reference numeral "172" should read --142--;

12/28/2005 MGEBREM2 00000017 6857193
01 FC:1811 100.00 OP

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ALEXANDRIA, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 14 2003
OFFICE OF PETITIONS

Applicant: Sato et al.
Appl. No.: 09/969,758
Filing Date: October 4, 2001
Title: ORGANIC ELECTROLUMINESCENT DEVICE
Attorney Docket No.: 214757US0
Pub. No.: US 2002/0125818 A1
Pub. Date: September 12, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on November 12, 2002, for the above-identified application.

The request is granted.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles CA 90025-1030

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
MUKUNDAN, et al. :
Application No. 09/969,798 : DECISION ON PETITION
Filed: September 29, 2001 : TO WITHDRAW
Attorney Docket No. OIC0149US : 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 31, 2006.

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

A review of the file record indicates that the power of attorney to Marina Portnova has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Campbell, Stephenson Asocolese, LLP**
4807 Spicewood Springs Rd.
Bldg. 4, Suite 201
Austin, TX 78759

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United States Patent and Trademark Office
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JAN 31 2007

OFFICE OF PETITIONS

CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

In re Application of :
Anil Mukundan, et al. :
Application No. 09/969,798 : DECISION ON PETITION
Filed: September 29, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. OIC0149US :

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 20, 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 January 25, 2007 was mailed on October 17, 2006.

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

This application is being referred to Technology Center Art Unit 2152 for appropriate action as the nature of the case requires.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Steven B. Kelber
Supervisor, Patent Prosecution Services
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:
Robert Weathersby, et al.
Application No. 09/969,812
Filed: October 04, 2001
For: INTERNET-BASED SYSTEM FOR DYNAMICALLY CREATING AND DELIVERING CUSTOMIZED CONTENT WITHIN REMOTE WEB PAGES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 21, 2005.

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

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 Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DLA Piper Rudnick Gray Cary US LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

JUL 27 2005

In re Application of:
Robert G. WEATHERSBY, et al.
Application No. 09/969,814
Filed: October 4, 2001
For: METHOD AND SYSTEM OF USING COLLECTIVE HUMAN INTELLIGENCE TO LOGICALLY GROUP RELATED ITEMS

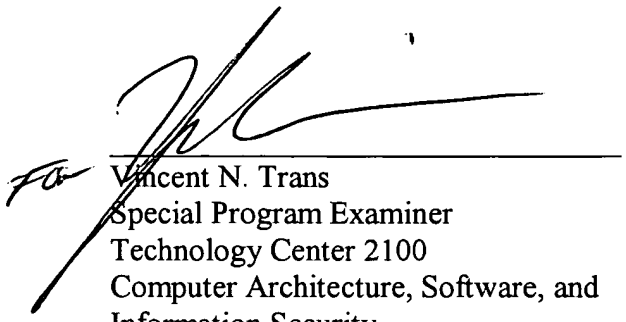
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 21, 2005 and the Supplemental Request To Withdraw from Representation filed July 26, 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 is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) 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 U.S. Patent and Trademark Office (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 Office of any change in correspondence address to ensure receipt of all communications from the Office.



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

cc: Mr. Sam Winebaum
eFavorites, Inc.
72A Congress Street
Portsmouth, NH 03801-6682

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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of
Richard Taylor
Application No. 09/969,843
Filed: October 4, 2001
Title of Invention: Image Processing Apparatus

ON PETITION

This is a decision on the petition filed July 19, 2005 under 37 CFR 1.137(a). This petition is being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed December 27, 2004. The notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 28, 2005. A Notice of Abandonment was mailed on July 12, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

Petitioner asserts that the Office Action mailed December 27, 2004 was never received. A review of the record indicates no irregularity in the mailing of the Notice, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

Accompanying the petition is a statement by the practitioner stating the Office Action was not received and attesting to the fact a review of docket records indicates the Office Action was not received. In addition, petitioner has provided a copy of docket records for the dates in question. Accordingly, petitioner has provided sufficient information to warrant the withdrawal of the holding of abandonment.

Deposit account 06-1205 is being refunded the $500.00 petition fee.

The Office acknowledges receipt of the Amendment submitted with the petition on July 19, 2005.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition 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

GLENN E WON TERSCH
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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FEB 15 2002

OFFICE OF PETITIONS

In re Application of :
Anil Mukundan et al : DECISION GRANTING
Application No. 09/969,849 : PETITION
Filed: September 29, 2001 :
Attorney Docket No. 005306.P056 :

This is a decision on the petition under 37 CFR 1.10(c) filed January 30, 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 29, 2001, rather than the presently accorded filing date of October 2, 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 29, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL143569415US, but, the "date-in" and the "San Francisco CA" receipt stamp on applicants' "Express Mail" mailing label is not legible. The same Express Mail receipt number is noted on the original application transmittal letter filed in the case.

A search of the USPS's Track/Confirm system information confirms that a package bearing Express Mail label No. EL143569415US was accepted at 11:58 pm on September 29, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on September 29, 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 to await applicants' response to the Notice mailed November 6, 2001, and for correction of the filing date to September 29, 2001.

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

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

Enclosure: Express Mail Track/Confirm Sheet

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GLENN E. VON TERSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 20 2006
OFFICE OF PETITIONS

In re Application of :
Mukundan, et al. :
Application No. 09/969,849 : DECISION ON PETITION
Filed: September 29, 2001 : TO WITHDRAW
Attorney Docket No. 5306.P056 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewod Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/969,849	10/02/2001	Anil Mukundan	005306.P056

CONFIRMATION NO. 9062

OC000000020478125

OC000000020478125

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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P. O. Box 1450
Alexandria, VA 22313-1450
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KOREN ANDERSON
MOLECULAR PROBES, INC.
29851 WILLOW CREEK ROAD
EUGENE, OR 97402-9132

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JUL 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Wai-Yee Leung et al :
Application No. 09/969,853 : ON PETITION
Filed: October 1, 2001 :
Attorney Docket No.

This is a decision on the petition, filed July 5, 2005 under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 17, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 4

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026

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MAR 2 8 2002

OFFICE OF PETITIONS

In re Application of
Mukundam et al.
Application No. 09/969,855
Filed: September 29, 2001
For: Method, Apparatus, and System for Managing Commands in a Client Server Environment

: DECISION GRANTING
: PETITION

This is in response to the petition filed January 30, 2002, pursuant to the provisions of 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of September 29, 2001, rather than the presently accorded filing date of October 2, 2001.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on September 29, 2001. In support, petitioner provided a copy of the Express Mail label, receipt no. EL617208933US, showing a Date-In of September 29, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Petitioner requests that the application be accorded a filing date of September 29, 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 29, 2001.

The petition is granted.

The application is being returned 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

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

ATTACHMENT: Corrected Filing Receipt

20 MAR 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Thien T. Nguyen
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

In re Application of	:
MUKUNDAN, Anil et al.	:
Application No.: 09/969,855	: DECISION
Filing Date: September 29, 2001	:
Docket No.: 005306.P052	: ON PETITION UNDER
For: METHOD, APPARATUS, AND	:
SYSTEM FOR MANAGING	: 37 CFR 1.181
COMMANDS IN A CLIENT	:
SERVER ENVIRONMENT	:

This is a decision on the "Cross-Reference Under 37 C.F.R. §1.78(a)(2) to Related Applications" filed in the United States Patent and Trademark Office on 02 August 2005. It has been treated as a petition under 37 CFR 1.181.

The above application was filed on September 29, 2001. Applicants filed the instant petition to claim priority to applications filed on or after September 29, 2001.

Applications filed on the same day or after the above application are not "prior-filed applications." As such, claims to them cannot be added under 37 CFR 1.78.

Applicants' petition under 37 CFR 1.181 is **DISMISSED**.

The application is being referred to the Technology Center for continued processing.

Erin P. Thomson

Erin Thomson
Attorney Advisor
PCT Legal Administration

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard,7th Floor
Los Angeles CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
MUKUNDAN, et al. :
Application No. 09/969,855 : DECISION ON PETITION
Filed: September 29, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P052 : 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 31, 2006.

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

A review of the file record indicates that the power of attorney to Marina Portnova has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Campbell, Stephenson Asocolese LLP**
4807 Spicewood Springs Rd.
Bldg. 4, Suite 201
Austin, TX 78759

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
09/969,855	10/02/2001	Anil Mukundan	005306.P052

CONFIRMATION NO. 9817

OC000000020594837

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 09/27/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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
09/969,855	10/02/2001	Anil Mukundan	005306.P052

CONFIRMATION NO. 9817

OC000000020594767

Thien T. Nguyen
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

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OFFICE OF PETITIONS

In re Application of :
Anil Mukundan et al :
Application No. 09/969,855 :
Filed: October 2, 2001 :
Attorney Docket No. 005306.P052 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen months publication country on September 20, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122 (b) (2) (B) (i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be mailed in a separate correspondence.

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

This matter is being referred to Technology Center AU 2179 for examination in due course.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

John P. Ward
c/o Thien T. Nguyen
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

MAIL

JUL 2 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Mukudan et al.
Application No. 09/969,856
Attorney Docket No. 005306.P005
Filed: September 29, 2001
For: METHOD, APPARATUS, AND SYSTEM FOR IMPLEMENTING A FRAMEWORK TO SUPPORT A WEB-BASED APPLICATION

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) – ACCELERATED EXAMINATION

This is a decision on the petition, filed May 12, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

MPEP § 708.02, Section VIII, sets out the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), as follows:

> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
> The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.
> If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.
> If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

> Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petitioner submits one copy of each of the references most closely related to the subject matter encompassed by the claims and submits a statement that a search has been made and provides a list of the field of search by class and subclass. A copy of the international Search Report with the corresponding references was filed on April 2, 2003. Therefore, the petition complies with items (C) and (D) of the items mentioned above.

Applicant submits a fee under 37 CFR 1.17(h). Therefore, the petition complies with item (A) mentioned above.

However, the petition is deficient with respect to items (B) and (E) above:

(B) Applicant states that all the claims are directed to a single invention. Since there are several independent claims, each having a different scope, it will be up to the examiner to make such a determination. Applicant has made no provision for the possibility of a restriction requirement by the examiner. Applicant must provide the following statement as a prerequisite to a grant of special status: "If the Office determines that all claims presented are not obviously directed to a single invention, applicant will make an election without traverse and will follow established telephone restriction practice to make such an election if requested to do so."

(E) Applicant has failed to provide a detailed discussion that points out, *with the particularity required by 37 CFR 1.111(b) and (c)*, how the claimed subject matter is patentable over the references. For each of the references cited, applicant must clearly show how each of the cited references are deficient in teaching *or suggesting* specific language of the claims. The summary of the three references followed by a paraphrase of the claims does not meet the requirements of 37 CFR 1.111(b) and (c).

Furthermore, the summary of the claim features does not match the language of the claims in the present application. The limitations "customizable products classes", "customizable product instant", "component products", etc. are all missing from the claims.

Therefore, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Petitioner is entitled to one opportunity to perfect the request in a renewed petition to make special. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

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

BJP

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Paper No. 13

John P. Ward
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

MAIL

FEB 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Mukundan et al.
Application No. 09/969,856
Attorney Docket No. 005306.P005
Filed: September 29, 2001
For: METHOD, APPARATUS, AND SYSTEM FOR IMPLEMENTING A FRAMEWORK TO SUPPORT A WEB-BASED APPLICATION

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(d) ACCELERATED EXAMINATION

This is a decision on the renewed petition to make special filed on Sep 2, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The renewed petition supplements the original petition with an appropriate election of claims without traverse. The petitioners have also provided additional discussion of the references that complies with the requirements of 37 CFR § 1.11(b) and (c). The renewed petition in conjunction with the original petition fully satisfies the criteria set forth in MPEP 708.02, Section VIII.

The petition is **GRANTED**. The application has been granted special status.

Prosecution of the application will proceed according to the procedure set forth in MPEP 708.02(VIII). Applicant is reminded that there is no provision for "withdrawal" from this special status. The application has been forwarded to the appropriate art unit for examination.

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

Paper No. 5

Glenn E. Von Tersch
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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APR 05 2002

OFFICE OF PETITIONS

In re Application of :
Coker, et al. :
Application No. 09/969,857 : DECISION ON PETITION
Filed: September 29, 2001 :
Attorney Docket No. 005306.P010 :

This is a decision on the "Petition to Assign Earlier Filing Date Pursuant to 37 C.F.R. §1.10(c)[1] and Request for Correction of Filing Receipt," filed January 30, 2002, requesting that the above-identified application be accorded a filing date of September 29, 2001, rather than the presently accorded filing date of October 2, 2001.

The petition is **GRANTED**.

Petitioner maintains that the above-identified application was originally filed with the United States Patent and Trademark Office (USPTO) on September 29, 2001 via Express Mail No. EL143569401US. Petitioner respectfully requests correction of the filing receipt to accord the application with the filing date when the application was received by the USPS, September 29, 2001. In support, petitioner submitted thereof petitioner submitted a copy of the Express Mail mailing label.

Preliminarily, it is concluded that the petition was filed promptly after petitioner received notice by way of filing

---

[1] §1.10(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3)The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

receipt that the Office had accorded a filing date of October 2, 2001. The evidence of record further shows that the number of the "Express Mail" mailing label, EL143569401US, is on the correspondence of record presently accorded a filing date of October 2, 2001, and thus, was placed on the correspondence prior to the original mailing.

Finally, petitioner has made a showing which establishes, to the satisfaction of the Commissioner, that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label. The "Express Mail" mailing label No. EL143569401US, is for "Post Office to Addressee" service, is properly addressed to the Office, bears a handwritten date-in of 9/29/01 at 23:57[2], and an official USPS San Francisco postmark of September 29, 2001.

In view thereof, the proper date to be accorded this application is September 29, 2001, not October 2, 2001.

No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination for further processing including **correction of the filing date to September 29, 2001**, and mailing of a corrected filing receipt.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

E. Shirene Willis for

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

Encl: Copy of USPTO USPS Express Mail Printout (Paper No. 4).

[2] The handwritten date-in is not entirely legible. However, viewing it in light of the information available on the USPTO's USPS Express Mail Information Database, it is clear that it states 9/29/01 at 11:57 pm. The information in the database reflects presence of the package in the system at 12:06 am on 9/30/01, supporting a conclusion that the date-in was entered by a USPS employee prior to that time.

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GLENN E. VON TERSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Coker, et al. :
Application No. 09/969,857 : DECISION ON PETITION
Filed: September 29, 2001 : TO WITHDRAW
Attorney Docket No. 5306.P010 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIM KANZAKI
ORACLE INTERNATIONAL CORPORATION
LEGAL (M/S 50P728)
500 ORACLE PARKWAY
REDWOOD SHORES, CA 94065

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OFFICE OF PETITIONS

In re Patent No. 6,907,451	:	
Issue Date: June 14, 2005	:	
Application No. 09/969,858	:	DECISION GRANTING PETITION
Filed: September 29, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. OICO196US	:	

This is a decision on the petition, filed October 27, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. *See* 37 CFR 1.137(f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on September 20, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

This application matured into Patent No. 6,907,451 on June 14, 2005. Therefore, no further action is required in this case.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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APR 30 2002

Office of the Director
Group 3600

Larson & Taylor, PLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314

Paper No. 6

In re Application of:
Blake Whisenant
Serial No. 09/969,882
Filed: October 4, 2001
For: PLANT CULTIVATION APPARATUS AND METHOD FOR GROWING CROPS IN SEQUENCE

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed April 15, 2002 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states that the "...present invention contributes to the conservation of the scarce resource of water by providing an apparatus and method which minimizes the waste of water as a resource during the process of growing crops". The petition goes on to say that "...the present invention utilizes a reservoir container which defines a growing medium volume located above and separated from a water drain volume along its lower wall. During use, the growing medium volume is filled with a growing medium into which the roots of plants are grown. Furthermore the assembly has a top wall made of plastic material such as recycled plastic. The top wall has one or more openings therein for plant growth but also helps to restrain evaporation of the water resource applied to the assembly and stored in the water drain volume". These statements are adequate to establish for the record that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life sustaining natural elements."

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

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

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

SNM/SNM: 4/27/02

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United States Patent and Trademark Office
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OCT 26 2004

OFFICE OF THE DIRECTOR
TC 3600

STITES & HARBISON PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314

In re application of : **DECISION ON PETITION**
Blake Whisenant : **TO MAKE SPECIAL**
Application No. 09/969,882 : **(APPLICANT'S AGE)**
Filed: October 04, 2001 :
For: PLANT CULTIVATION APPARATUS AND METHOD FOR GROWING CROPS IN SEQUENCE

This is a decision on the petition submitted on September 07, 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. Whisenant 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
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 10/18/04

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Paper No. 7

Gideon Gimlan
MACPHERSON KWOK CHEN & HEID LLP
2001Gateway Place
Suite 195E
San Jose, CA 95110

MAIL

FEB 1 1 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Bruce W. McGaughy et al.
Application No. 09/969,923
Filed: October 3, 2001
For: SYSTEMS AND METHODS FOR EFFICIENTLY SIMULATING ANALOG BEHAVIOR OF DESIGNS HAVING HIERARCHICAL STRUCTURE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed January 20, 2004.

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

The request filed January 20, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: Stephen C. Durant, Esq.
MORRISON & FOERSTER
425 Market Street
San Francisco, CA 94105-2482

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 12, 2006

TO SPE OF : ART UNIT 3731 **(S.P.E. Anh Tuan Nguyen)**

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/969947 Patent No.: 6,984,241

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

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

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

Please see the claims.

STM Stacy Powell

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

A. T. Nguyen — **SPE**

3731 — **Art Unit**

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence for Patent No.6,984,241 is being electronically transmitted to the U.S. Patent and Trademark Office, via EFS-WEB, on May 11, 2006.

/Kevin G. Rooney/ — May 11, 2006
Kevin G. Rooney, Reg. No. 36,330 — Date

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: Lawrence M. Lubbers et al.
Patent No.: 6,984,241
Issue Date: January 10, 2006
Title: APPARATUS AND METHODS FOR TENDON OR LIGAMENT REPAIR
Confirmation No.: 8457
Atty Docket No.: TTL-04

Cincinnati, Ohio May 11, 2006

Please enter.
N Gurge.
6/9/06

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

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO AND APPLICANTS' MISTAKES

It is respectfully requested that a Certificate of Correction be issued for the patent identified in the heading. The patent contains errors that occurred through the fault of the Patent Office and Applicants and also contains errors of a clerical, typographical nature.

This request is made under 17 C.F.R. § 1.322 and § 1.323 to correct various mistakes. The patent shows that Applicants' mistakes were made in good faith. The fee in the amount of $100.00 as set forth in Rule 1.20(a) is enclosed.

Column 18, line 62, after "end" insert --20--.

Column 19, line 11, change "alternatively," to --Alternatively,--.

Column 19, line 23, change "whether" to --Whether--.

Column 19, line 49, change "inches" to --inch--.

Column 19, line 59, change "34, 36" to --34, 38--.

Column 20, line 21, change "if" to --is--.

Column 20, line 32, change "gear" to --tear--.

Column 22, line 43, change "and" to --end--.

Column 23, line 15, change "an" to --and--.

Column 23, line 37, change "become" to --becoming--.

Column 24, line 26, change "where upon" to --whereupon--.

Column 24, line 62, change "suitable" to --suitably--.

Column 25, line 38, change "suitable" to --suitably--.

Column 25, line 44, delete "322".

Column 26, line 12, change "tendons" to --tendon' s--.

Column 26, line 21, change "is" to --are--.

Column 29, line 40, change "structure" to --structures--.

Column 30, line 33, change "points" to --point--.

Column 33, line 66, change "immediately" to --immediate--.

Column 39, line 69, after "said" insert --first--.

Column 39, line 73, after "said" insert --first--.

Column 40, line 12, after "said" insert --first--.

Column 40, line 13, after "said" insert --first--.

Column 41, line 63, delete "includes structure configured to engage" and insert --and– in place thereof.

Column 41, line 64, insert --are coupled together-- after "anchor".

Column 42, line 7, after "said" insert --first--.

Column 42, line 16, after "said" insert --first--.

Column 42, line 30, after "said" insert --first--.

Column 42, line 45, after "tensile" insert --member--.

Column 43, line 22, after "portion" insert --and an outer surface,--.

Column 44, line 35, change "a" to --and--.

In accordance with the established procedure for handling such certificates a Form PTO-1050 is enclosed herewith listing the errors.

Should any additional fees be required, authorization is hereby given to charge such fees to deposit account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P

/Kevin G. Rooney/
Kevin G. Rooney
Reg. No. 36,330

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,984,241 Page 1 of 2

DATED : January 10, 2006

INVENTOR(S) : Lawrence M. Lubbers et al.

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

Column 18

Line 62, after "end" insert --20--.

Column 19

Line 11, change "alternatively," to --Alternatively,--.

Line 23, change "whether" to --Whether--.

Line 49, change "inches" to --inch--.

Line 59, change "34, 36" to --34, 38--.

Column 20

Line 21, change "if" to --is--.

Line 32, change "gear" to --tear--.

- -

MAILING ADDRESS OF SENDER:

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

PATENT NO. 6,984,214
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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,984,241

DATED : January 10, 2006

INVENTOR(S) : Lawrence M. Lubbers et al.

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

Column 22

Line 43, change "and" to --end--.

Column 23

Line 15, change "an" to --and--.

Line 37, change "become" to --becoming--.

Column 24

Line 26, change "where upon" to --whereupon--.

Line 62, change "suitable" to --suitably--.

Column 25

Line 38, change "suitable" to --suitably--.

Line 44, delete "322".

MAILING ADDRESS OF SENDER:

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,984,241

DATED : January 10, 2006

INVENTOR(S) : Lawrence M. Lubbers et al.

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

Column 26

Line 12, change "tendons" to --tendon' s--.

Line 21, change "is" to --are--.

Column 29

Line 40, change "structure" to --structures--.

Column 30

Line 33, change "points" to --point--.

Column 33

Line 66, change "immediately" to --immediate--.

Column 39

Line 69, after "said" insert --first--.

Line 73, after "said" insert --first--.

Column 40

Line 12, after "said" insert --first--.

MAILING ADDRESS OF SENDER:

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441 Vine Street
Cincinnati, OH 45202-2917

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,984,241 Page 4 of 4

DATED : January 10, 2006

INVENTOR(S) : Lawrence M. Lubbers et al.

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

Column 41

Line 63, delete "includes structure configured to engage" and insert --and-- in place thereof.

Line 64, insert --are coupled together-- after "anchor".

Column 42

Line 7, after "said" insert --first--.

Line 16, after "said" insert --first--.

Line 30, after "said" insert --first--.

Line 45, after "tensile" insert --member--.

Column 43

Line 22, after "portion" insert --and an outer surface,--.

Column 44

Line 35, change "a" to --and--.

MAILING ADDRESS OF SENDER:

Wood, Herron & Evans, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202-2917

PATENT NO. 6,984,214
No. of add'l copies
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Alexandria, VA 22313-1450
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CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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OFFICE OF PETITIONS

In re Application of :
Mukunson et al. :
Application No. 09/969,966 : DECISION ON PETITION
Filed: September 29, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 05306.P059 :

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 13, 2006. 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 was previously mailed on October 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 2194 for examination in due course.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

Siemens Schweiz
1-44, Intellectual Property
Albisriederstrasse 245
Zurich, CH-8047
Switzerland

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DEC 2 4 2003

OFFICE OF PETITIONS

In re Application of
Walter Rosenbaum
Application No. 09/969,973
Filed: October 4, 2001
Attorney Docket No. 2001P17534US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 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 31, 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.

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

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

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FEB 8 2007

KELLY J. WILLIAMSON
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re Application of	:
Stemmer	:
Serial No.: 09/970,004	: PETITION DECISION
Filed: 1 october 2001	:
Attorney Docket No.: 035718/283452	:

This is in response to the petition under 37 CFR 1.144, filed 11 December 2006, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed on 1 October 2001, under 35 U.S.C. 111(a). The examiner mailed to applicants on 18 March 2004, a restriction requirement, wherein seven distinct inventions (Groups I-VII) were identified and rationale set forth establishing the examiner's position.

Applicants elected Group I, which encompassed claims 1-4, 9, 16-19, 22-23, 28, 35-38, 41-42, 47, 54-57 and 60, without traverse.

On 25 August 2004, the examiner mailed an Office action acknowledging the election of Group I without traversal. Claims 5-8, 10-15, 21-21, 24-27, 29-34, 39-40, 43-46, 48-54, 58 and 59 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Claims 1-4, 9, 16-19, 22-23, 28, 35-38, 41-42, 47, 54-57 and 60 were rejected as follows:

> Claims 1-3 16-19, 22-23, 35-38, 41-42, 54-57 and 60 were rejected under 35 USC 102(e) as being anticipated by Ebinuma et al.
>
> Claims 1-4, 16-19, 22-23, 35-38, 41-42, 54-57 and 60 were rejected under 35 USC 103 as being obvious over Ebinuma et al in view of Gatz.
>
> Claims 1-3, 9, 16-19, 22-23, 28, 35-38, 41-42, 47, 54-57 and 60 were rejected under 35 USC 103 as being obvious over Ebinuma et al in view of Konowicz et al.

A response to the Office action was filed on November 11, 2004 accompanied by an amendment which amended the claims under examination and added new claims 61-66 which depended from and required all the limitations of claims already under examination.

On 13 March 2005, the examiner mailed to applicants a second restriction requirement, wherein elected Group I was further divided into new Groups VIII, IX and X. The examiner justified this restriction requirement by alleging that the inventions have a separate status in the art as shown by their different classification, their recognized divergent subject matter and their requiring different searches.

On 12 May 2005, applicants elected Group IX with traverse, stating that the examiner has not established that it would be a burden to continue to examine the claims of Group I together.

On 11 August 2006, the examiner mailed an Office action acknowledging the election of Group VIII with traversal. The traversal was considered and the supplemental restriction requirement made FINAL. Claims 1-4, 9, 16-19, 41, 54-57 and 60-63 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. Claims 22-23, 28, 35-38 and 64-69 were rejected as follows:

> Claims 22-23, 35-38, and 64-66 were rejected under 35 USC 102(e) as being anticipated by Ebinuma et al.
>
> Claims 22-23, 28, 35-38, and 64-66 were rejected under 35 USC 103 as being obvious over Ebinuma et al in view of Konowicz et al.

Applicants filed this petition on 11 December 2006, requesting review of the supplemental restriction requirement.

DISCUSSION

MPEP 803 sets forth the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Because the Office has already searched and examined the claims of Group I, applicants are correct that the Office would not be able to assert the serious burden in continuing to examine those claims. The amendment filed 11 November 2004 did not change the scope of the claims such that the amended claims became patentably distinct from the original claims. Nor was the addition of new claims 61-69 sufficient grounds to prompt a new restriction requirement,

because claims 61-69 depend from and merely required further limitations of claims which had already been examined as part of Group I in the Office action mailed 25 August 2004.

DECISION

The petition is **GRANTED** for the reasons set forth above. The supplemental restriction requirement made within Group I is withdrawn. Groups VIII, IX and X are rejoined and will be examined together.

The application will be forwarded to the examiner for consideration of the response filed 11 December 2006 and further action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thien T. Nguyen
Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :

Anil Mukundan et al. :
Application No. 09/970,007 : DECISION ON PETITION
Filed: September 9, 2001 : TO WITHDRAW
Attorney Docket No. 05306P054 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

In re Application of :
Mukunson et al. :
Application No. 09/970,007 : DECISION ON PETITION
Filed: September 29, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 05306P054 :

This is a decision on the petition, filed October 4, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 13, 2006. 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 was previously mailed on October 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 2145 for examination in due course.

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

Paper No. 5

GARY CARY WARE & FREIDENRICH
1755 EMBARCADERO
PALO ALTO, CA 94303-3340

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Mikael Bourges-Sevenier :
Application No. 09/970,011 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 2102798-991220 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 16, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 6, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 7, 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
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FISH & RICHARDSON
45 ROCKEFELLER PLAZA, SUITE 2800
NEW YORK NY 10111

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Noriaki Sakamoto et al :
Application No. 09/970,013 :
Filed: October 2, 2001 :
Attorney Docket No. 10417-102001 :

ON PETITION

This is a decision on the petition, filed July 23, 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 12, 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 2823 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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Paper No. 7

MAR 1 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of:
Franklyn PEART
Application No. 09/970,037
Filed: October 2, 2001
For: METHODS FOR DISTRIBUTED PROGRAM EXECUTION WITH SERVER-BASED FILE TYPE ASSOCIATION

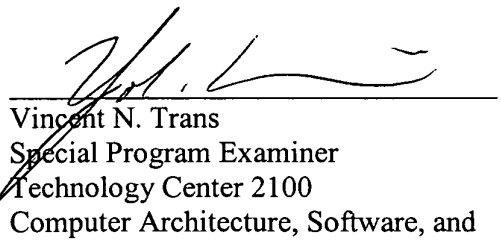
DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 27, 2004.

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

The request is **GRANTED.**

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



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

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

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MAR 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of:
Franklyn PEART
Application No. 09/970,038
Filed: October 2, 2001
For: METHODS FOR DISTRIBUTED PROGRAM EXECUTION WITH FILE-TYPE ASSOCIATION IN A CLIENT-SERVER NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 27, 2004.

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

The request is **GRANTED.**

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

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

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

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)
6747015	2004-06-08	09970043	2001-10-02	KBPCO.001APC

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	/Mincheol Kim/	Date (YYYY-MM-DD)	2010-02-25
Name	Mincheol Kim	Registration Number	51306

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6747015
Issue Date: June 8,2004
Application No. 09970043
Filed: October 2,2001
Attorney Docket No. KBPCO.001APC

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

This is a decision on the electronic petition, filed February 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25,2010 . 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.

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)
6446827	2002-09-10	09970050	2001-10-03	A01060US

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	/H Roy Berkenstock/	Date (YYYY-MM-DD)	2007-07-03
Name	H. Roy Berkenstock	Registration Number	24719

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. 6446827
Issue Date: September 10,2002
Application No. 09970050
Filed: October 3,2001
Attorney Docket No. A01060US

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

This is a decision on the electronic petition, filed July 3,2007 ,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 July 3,2007 . 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

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

Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Manoel Tenorio	: DECISION ON REQUEST FOR
Patent Number	: 7650305	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/970,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1698** 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

08162004

KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

SEP 3 2004

In re Application of:
William D. Jensen et al.
Serial No.: 09/970,074
Filed: October 2, 2001
For: **METHOD AND APPARATUS FOR TRIMMING INTEGRATED CIRCUITS**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed March 9, 2003, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely reply to the restriction requirement mailed March 17, 2003. A Notice of Abandonment was mailed on August 27, 2003.

Petitioner asserts that the restriction requirement of March 17, 2003 was not received. To support this assertion, petitioner provided a copy of petitioner's docket records between March 18, 2003 and June 18, 2003, which indicates that the restriction requirement was not received. Petitioner further asserts that the examiner indicated that there was a mistake in the identification of the application serial number on the Office action, which led to the action being mailed to an incorrect address in Virginia.

A review of the file record indicates that the restriction requirement was mailed to an incorrect address of record on March 17, 2003. As indicated in the petition, the information (application number, correspondence address, filing date, inventorship, and attorney docket number...) that appears on the cover sheet of the restriction requirement was for a different application having no connection to the instant application. Although there are markings indicating that the application number on the cover sheet has been crossed out and replaced with the correct application number, other information was not corrected. The record fails to indicate that the restriction requirement has ever been mailed or re-mailed to the address of record. Accordingly, because the application was never mailed to the correspondence address of record, the applicant was not duly served notice that a reply was due. The holding of abandonment is improper and must be withdrawn.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the restriction requirement. The shortened statutory period for response will be reset to run from the date the action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Hien H. Phan at (571) 272-1606.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Brian Cartmell	: DECISION ON REQUEST FOR
Patent Number	: 7664831	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/970,096	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/02/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1036** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PAPER NO. 17

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
D-377/AP6D
ABBOTT PARK, IL 60064-6050

COPY MAILED

JUL 07 2005

OFFICE OF PETITIONS

In re Application of :
Stephen W. Fesik et al :
Application No. 09/970,156 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 5816.US.D2 :

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 **DISMISSED.**

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

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 3, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that prima facie places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment prima facie placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, no extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2004.

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

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

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

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

By facsimile: (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

cc:

Lisa V. Mueller
Wood, Phillips, Katz, Clark & Mortimer
Citicorp Center, Suite 3800
500 West Madison Street
Chicago, IL 60661-2511

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. 21

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
D-377/AP6D
ABBOTT PARK, IL 60064-6050

COPY MAILED

AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Stephen W. Fesik et al :
Application No. 09/970,156 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 5816.US.D2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 29, 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.

This application is being forwarded to Technology Center AU 1639 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

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Paper No. 10

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DEC 22 2003

Technology Center 2100

FOLEY HOAG, LLP
Patent Group, World Trade Center West
155 Seaport Blvd
Boston, MA 02110

In re Application of
Scott S. LAWTON
Application No. 09/970,160
Filed: October 2, 2001
For: ENHANCED METHOD AND SYSTEM FOR CATEGORY SELECTION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 12, 2003.

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

The request is **GRANTED**.

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

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

cc: Scott Lawton
Catchmaker
24 Colonial Drive
Chelmsford, MA 01824

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Paper No. 8

Edwards & Angell
PO Box 55874
Boston, MA 02205

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MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Cobley et al. :
Application No. 09/970,171 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 51265 :

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

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 6, 2001. The Notice set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 7, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

AUG 3 0 2004

Mailed:_____

rvk

Paper No. _____

In re application of: :
Ronald S. Sapieszko et al :
Serial No.: 09/970,173 : DECISION ON
Filed: October 03, 2001 : PETITION
For: NOVEL MINERALS AND METHODS FOR THEIR PRODUCTION AND USE:

This is a response to the PETITION FOR WITHDRAWAL OF ABANDONMENT under 37 C.F.R. 1.181, filed February 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 09, 2004, for failure to timely file a proper response to the Office letter dated May 28, 2003 be withdrawn. The petitioner asserts that applicants timely filed a proper response and a Petition for Extension of Time on August 27, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did file the proper response to the Office letter of May 28, 2003 in a timely manner. The evidence provided includes: 1) a copy of the Amendment in response to the Office letter of May 28, 2003 with Express Mail Label No. EV 325640515 US; and 2) a copy of the returned stamped postcard confirming receipt of the Response by the USPTO dated August 27, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to

pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated August 27, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS LLP
ONE LIBERTY PLACE – 46TH FLOOR
PHILADELPHIA, PA 19103

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SPEEDFAM-IPEC CORPORATION
305 NORTH 54th STREET
CHANDLER, AZ 85226

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas Laursen, et. al.	:	
Application No. 09/970,185	:	ON PETITION
Filed: October 3, 2001	:	
Attorney Docket No. SFI 658C1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2005, to revive the above-identified application.

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 August 26, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight November 26, 2004.

In response, petitioner submitted with the instant petition $1,500 for the petition to revive fee, $1,400 for the issue fee, and $300 for the publication fee.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

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

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

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Paper No. 5

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego, CA 92192-8289

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JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Gowri Rajaram :
Application No. 09/970,188 : DECISION ON PETITION
Filed: October 3, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UTL 00143 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 2, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

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

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

The instant petition does not comply with item (1)

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in an amendment filed on February 2, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement to nonprovisional application No. 09/917,026 filed July 6, 2001 are required.

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

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

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[1] *Note* 37 CFR 1.121

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (703) 305-9220 .

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

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

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Paper No. 11

KYOCERA WIRELESS CORP.
P.O. BOX 928289
SAN DIEGO CA 92192-8289

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OFFICE OF PETITIONS

In re Application of :
Gowri Rajaram : DECISION ON PETITION
Application No. 09/970,188 : UNDER 37 CFR 1.78(a)(3)
Filed: October 3, 2001 :
Atty Docket No. UTL 00143 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on June 21, 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(s), unless previously submitted;[1]

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

[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).

> **(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 October 3, 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.

Receipt is acknowledged of the Power of Attorney filed June 21, 2004.

This application is being forwarded to Technology Center Art Unit 2122 for consideration by the Examiner of the amendment filed June 21, 2004, including 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 Sherry D. Brinkley at 703-305-9220.

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

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

ATTACHMENT: Corrected Filing Receipt

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Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, NW
Washington DC 20005-3315

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Janke, et al. : LETTER REGARDING PTA AND
Application No. 09/970,195 : CERTIFICATE OF CORRECTION
Filed: October 2, 2001 :
Atty. Dkt. No.: 279.072US3 :

This letter is in response to the "STATEMENT REGARDING DETERMINATION OF PATENT TERM ADJUSTMENT," filed September 7, 2004. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct Patent Term Adjustment ("PTA") at the time of the issuance of the patent is 0 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 and Issue Fee Due reflects an adjustment of 0 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants believe that the adjustment of two days indicated in the Determination of Patent Term Adjustment dated June 7, 2004 may have been erroneously calculated and request confirmation that the adjustment of two days is correct.

A review of the application history reveals that the revised patent term adjustment of two days is in error. An adjustment of 95 days can be attributed to the Office[1]. This adjustment, however, is reduced in accordance with 37 CFR 1.704(b) for the period of time in excess of three months that it took applicants to respond to the non-final Office action mailed March 7, 2003. The reduction began June 8, 2003, the day after the date that is three months after the date of mailing of the non-final Office action, and ended September 8, 2003, the date a response was submitted.

[1] See, 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment is further reduced nine days in accordance with 37 CFR 1.704(c)(8) for submission of an IDS after a reply to the non-final Office action had been submitted. The delay began September 9, 2003, the day after the response to the non-final Office action was filed, and ended September 17, 2003, the date the IDS was submitted.

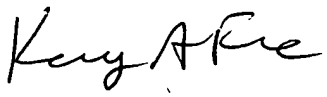
The adjustment is further reduced 20 days in accordance with 37 CFR 1.704(b) for the period of time in excess of three months that it took applicants to respond to the final Office action mailed November 25, 2003. The reduction began February 26, 2004, the day after the date that is three months after the date of mailing of the final Office action, and ended March 16, 2004, the date a response was submitted.

Accordingly, at the time of Determination of Patent Term Adjustment, the instant application was entitled to 0 days of patent term adjustment.

As applicants are advising us of an error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

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 (703) 305-0310.



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

Enclosure: Enclosure: Copy of Adjustment PAIR Calculation

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of
Goodisman et al.
Application No. 09/970,202
Filed: October 3, 2001
Attorney Docket No. VAO-001.01

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

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))," filed May 21, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a subsequently-filed foreign or international application filed November 19, 2001. The U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application[1].

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the

[1] A Request to Rescind Previous Non-publication Request was filed February 1, 2002; however, it was not accompanied by a Notice of Foreign Filing.

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. The application was published on June 6, 2002.

The application is being forwarded to Technology Center 2176 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON, TX 77002-4995

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OFFICE OF PETITIONS

In re Application of
Herbert A. Hollinger
Application No. 09/970,229
Filed: October 3, 2001
Attorney Docket No. 016295.0677

ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the July 25, 2007 Notification of Non-Compliant Appeal Brief under 37 CFR 41.37(c)(1), the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 26, 2007. *See* MPEP 1215.04. A Notice of Abandonment was mailed on April 17, 2008. On June 16, 2008, the present petition was filed.

The petition is not signed by an attorney or agent of record; however, in accordance with 37 CFR 1.34(a), the signature of Anthony P. Iannitelli appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Iannitelli desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) , including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

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

This application is being referred to Technology Center AU 2145 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

cc: ANTHONY P. IANNITELLI
98 SAN JACINTO BLVD., STE. 1500
AUSTIN, TX 78701

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United States Patent and Trademark Office
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Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Manoel Tenorio	: DECISION ON REQUEST FOR
Patent Number	: 7603290	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/970,256	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1079** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 10

DEC 10 2003

STMicroelectronics, INC.
Mail Station 2346
1310 Electronics Drive
Carrollton, TX 75006

In re Application of Danielle A. Thomas :
Application no. 09/970,258 : DECISION ON PETITION
Filed: 3 October 2001 :
Attorney Docket No. 98-C-152D1 :

This is a decision on the petition filed under 37 C.F.R. §1.181 on 18 September 2003, to invoke the supervisory authority of the Director of the USPTO to review the action of the examiner in the above-identified application. The petition is before the Director of Technology Center 2800 for review.

The petition is **GRANTED** to the extent indicated below.

It is respectfully noted that claims 1-7 were not restricted by the Restriction Requirement mailed 18 September 2003 because the claims were not pending in the application at that time as stated by the petitioner. It is understood that the petitioner was referring to claims 14-21 and not claims 1-7 in the petition.

MPEP § 808.01(a) indicates that, "**Election of species should not be required if the species claimed are considered clearly unpatentable (obvious) over each other**." (emphasis in original). Claims 14 and 24 are not patentably distinct over each other and therefore should not be restricted over one another.

The Office disagrees with the Petitioner's assessment that claim 22 is generic to all three asserted species. MPEP § 806.04 (d) states, "In general, a generic claim should include no material element additional to those recited in the species claims, and must comprehend within its confines the organization covered in each of the species." It is clear that claim 22 contains elements that are in addition to those in the species claims and are outside of the scope covered within each of the species. Claim 22 draws to an invention that is a "method of forming an integrated circuit" without the mention of forming a scratch resistant structure. Further claim 22 specifically employs tungsten throughout the integrated circuit structure which is an additional element not found within claims 14 and 24.

The application will be remanded to the examiner. The Office will examine claims 14 and 24 along with their dependant claims.

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

Paper No. 4

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

APR 29 2002

OFFICE OF PETITIONS

In re Application of :
Takahashi, et al. :
Application No. 09/970,306 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No.: SON-2242 :

This is a decision on the petition filed February 26, 2002 requesting that the above-identified application be granted a filing date of October 10, 2001.

The application was filed October 4, 2001. On January 2, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice") advising applicant that the a filing date had not been granted to the application because the application was deposited without a specification as required by 35 USC 112.

In response, the instant petition was filed February 26, 2002. Petitioner argues that the "Notice" was mailed in error, since a complete specification, including a seventy-one page specification, twenty-eight claims, a one-page abstract, and thirty-five sheets of drawings were included with the application as filed on October 4, 2001. Petitioner has included as proof of mailing and proof of receipt of the specification a return postcard date stamped October 4, 2001 by the Office to indicate receipt of the items itemized thereon. Petitioner has also provided a copy of the original specification purportedly filed October 4, 2001.

The original specification submitted with the application papers has not been located. However, in view of the evidence presented, the Notice mailed January 2, 2002 is hereby **WITHDRAWN** and the petition to accord the application a filing date of October 4, 2001 is **GRANTED**.

Since the original specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 4, 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

UNITED STATES 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.

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Patent No. 7,094,548	:	
Brizzard et al.	:	DECISION ON REQUEST
Issue Date: 22 August, 2006	:	FOR RECONSIDERATION OF
Application No. 09/970,308	:	PATENT TERM ADJUSTMENT
Filed: 4 October, 2001	:	and
Atty Docket No. SGM 6933.2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705" filed on 11 August, 2006. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 533 days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of five hundred thirty-two (532) days.

Petitioner states that the application is not subject to a terminal disclaimer.

On 22 August, 2006, the above-identified application matured into U.S. Patent No. 7,094,548. The instant request for reconsideration filed 11 August, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 444 days. Patentees contend that the Office erred in assessing delay for failure on the part of Patentees to engage in reasonable efforts to conclude processing or examination of the above-identified application as set forth in 37 CFR § 1.704, and also state that the Office made a computation error with regard to the filing of an amendment after the Notice of Allowance. In essence, Patentees' dispute two reductions of record, one for 88 days associated with "Workflow-Drawings Finished" on 9 December, 2005, stating that no new drawings had been required after the mailing of the Notice of Allowance. Patentees also state that the amendment after the Notice of Allowance resulted in 31 days, rather than 32 days, of applicant delay.

Patentees' contention is well taken. The OG Notice states that:

> … the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

With regard to the 88 days of delay for drawings, the showing of record is that no additional drawings were required. Rather, the drawings filed on 9 December, 2005, were part of an amendment filed after the Notice of Allowance, and applicant was properly assessed 32 days of applicant delay as a result of

filing the amendment after the mailing of the Notice of Allowance.

However, with regard to the 32 days of delay for the filing of the amendment after the Notice of Allowance, petitioner's contention that the applicant delay should be 31 days is incorrect.

37 CFR 1.704(c)(10) states

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
> (ii) Four months;

As such, the calculation of 32 days of applicant delay is correct.

In view thereof, the patent term adjustment indicated on the patent should be five hundred thirty-two (532) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FIVE HUNDRED THIRTY-TWO (532) days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,094,548 B2

DATED : August 22, 2006

INVENTOR(S) : Brizzard 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 (444) days

Delete the phrase "by 444 days" and insert – by 532 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

THOMAS B HAVERSTOCK
HAVERSTOCK & OWENS LLP
260 SHERIDAN AVENUE
SUITE 420
PALO ALTO CA 94306

COPY MAILED
NOV 24 2003
OFFICE OF PETITIONS

In re Application of :
Biberger, et al. :
Application No. 09/970,309 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. SSI-00800 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed June 6, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on October 3, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of March 4, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1763, for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

RECEIVED
DEC 16 2003
OFFICE OF PETITIONS

THOMAS B HAVERSTOCK
HAVERSTOCK & OWENS LLP
260 SHERIDAN AVENUE
SUITE 420
PALO ALTO CA 94306

COPY MAILED
NOV 24 2003
OFFICE OF PETITIONS

In re Application of :
Biberger, et al. :
Application No. 09/970,309 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. SSI-00800 :

RECEIVED
DEC 17 2003
TC 1700

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed June 6, 2003.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on October 3, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing which sets forth a projected publication date of March 4, 2004 accompanies this decision.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1763, for examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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Paper No. 34

MAILED

NOV 21 2003

Office of the Director
Group 3600

Michael L. Placid
4111 Placid Ct.
Houston, TX 77059

In re Application of :
Michel L. Cabiran :
Application No. 09/970,350 : DECISION OF PETITION
Filed: October 3, 2001 : TO WITHDRAW THE
Attorney Docket No. n/a : HOLDING OF ABANDONMENT
For: HIGH STRENGTH DETACHABLE :
CYLINDER-TO-PLATE JOINT FOR :
TABLES, FURNITURE, AND OTHER :
STATIC STRUCTURES :

This is in response to applicant's petition under 37 C.F.R. 1.181 filed July 18, 2003 2001, requesting withdrawal of the holding of abandonment of this application.

The Petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for applicant's failure to timely respond to the restriction requirement mailed October 31, 2002.

In response to the restriction requirement, petitioner's transcript indicates that petitioner called the examiner in charge of the application on November 23, 2002, and orally elected species 1. Petitioner's transcript further indicates that the examiner accepted petitioner's oral election thus waiving the requirement under 37 C.F.R. § 1.2 that all business with the Patent Office should be conducted in writing. Although, there is no Interview Summary Record in the case, the examiner has stated that the conversation did take place as recorded in petitioner's transcript and that he should have acted on the case. Accordingly, the Notice of Abandonment was sent in error.

The holding of abandonment is hereby withdrawn. The application is being sent to the examiner in charge of the application for examination of the elected claims.

Don Hajec, Director
Patent Technology Center 3600
(703) 306-4180
LB 10/28/03

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

RENNER KENNER GRIEVE BOBAK
TAYLOR & WEBER
FIRST NATIONAL TOWER
FOURTH FLOOR
AKRON, OH 44308

COPY MAILED

FEB 27 2002

OFFICE OF PETITIONS

In re Application of :
David B. Finkenbinder et al :
Application No. 09/970,360 : NOTICE
Filed: October 1, 2001 :
Attorney Docket No. ALE.P.4570.80 :

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 2834.

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

Ray M. Alden
808 Lake Brandon Trail
Raleigh, NC 27610

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Ray M. Alden :
Application No. 09/970,368 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(a), filed September 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed August 26, 2005, which set a statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on November 27, 2005. A Notice of Abandonment was mailed on August 25, 2006.

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

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

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

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

The instant petition lacks item (3).

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

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

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

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

The standard

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

---

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

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

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

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

[7]Id.

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

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that petitioner misplaced the Notice of Allowance and Issue Fee Due resulting in a delay in responding to the notice.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

The term "unavoidable" as used in 37 CFR 1.137(b) means that petitioner treated the prosecution of the patent application as his or her most important business. Thus, a successful petition for unavoidable delay must demonstrate that petitioner acted diligently, reasonably, and prudently relative to the application's prosecution and that, despite such efforts, the application became abandoned. The unavoidable standard is an exacting standard, which does not allow for mishaps that may have been unintentional, but avoidable. In this case, petitioner's misplacement of the Notice of Allowance and Issue Fee Due may have been unintentional, but it was avoidable. Further, it may be argued that the exercise of due diligence would demand that petitioner contact the UPSTO by phone or on the website to determine the amount of the issue fee and publication fee and obtain another Issue Fee Transmittal form. The facts as presented do not demonstrate the abandonment of the application was unavoidable. The petition is dismissed accordingly.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required

---

[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.

reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ray M. Alden
808 Lake Brandon Trail
Raleigh, NC 27610

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

In re Application of

Ray M. Alden

Application No. 09/970,368

Filed: October 2, 2001

Attorney Docket No.

: DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed January 11, 2007, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed August 26, 2005. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on November 27, 2005. A Notice of Abandonment was mailed on August 25, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on December 1, 2005.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

i2 TECHNOLOGIES US, INC.
ONE i2 PLACE, 11701 LUNA ROAD
DALLAS TX 75234

MAILED

APR 14 2009

OFFICE OF PETITIONS

In re Application of :
Noel Tenorio :
Application No. 09/970,371 : DECISION ON PETITION
Filed: October 2, 2001 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.181(A)
020431.0917 :
Title: PROVIDING VISUALIZATION :
OF MARKET OFFERS USING PATTERNS :
OF GEOMETRIC DISPLAY ELEMENTS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a), filed on October 15, 2008, requesting that the holding of abandonment in the above-identified application be withdrawn.

Receipt of the concurrently submitted amendment is acknowledged.

This petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 25, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 26, 2008.

ANALYSIS

Petitioner has alleged that the mailing was not received.[1] The electronic file has been reviewed, and it is clear that the Office communication was returned to the Office by the United States Postal Service on February 4, 2008.[2]

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 non-final Office action of January 25, 2008 was not received.

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

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

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

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

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1 It is noted in passing that a statement from the Assignee has been provided with this petition.

2 The returned mailing does not contain an indication from the USPS as to why delivery was not successfully completed.

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe, AZ 85281

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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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NAVIGATION TECHNOLOGIES
222 MERCHANDISE MART
SUITE 900, PATENT DEPT.
CHICAGO IL 60654

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Jeffrey E. Painter :
Application No. 09/970,375 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. N0110US :

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 2636 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

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

Paper No. _____

Date : May 31, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Jeffrey E. Painter
Application No. :09/970,375
Filed :October 3, 2001

The above-identified application has been assigned Patent No. 6,906,642 and an issue date of June 14, 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 June 14, 2005:

"All reference to Patent No. 6,906,642 to Jeffrey E. Painter of Illinois for NAVIGATION SYSTEM THAT SUPPORTS MULTIPLE LANGUAGES AND FORMATS appearing in the Gazette of June 14, 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

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)
6674576	2004-01-06	09970380	2001-10-03	00KS001/KE

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	//keppele//	Date (YYYY-MM-DD)	2008-03-11
Name	Kyle Eppele	Registration Number	34155

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. 6674576
Issue Date: January 6,2004
Application No. 09970380
Filed: October 3,2001
Attorney Docket No. 00KS001/KE

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

This is a decision on the electronic petition, filed March 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 6

Townsend & Townsend and Crew
Two Embarcadero Center
Eight Floor
San Francisco, CA 94111-3834

COPY MAILED

JUL 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Seong-Hoon Lee :
Application No. 09/970,388 : ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. 00939H-079810US :

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers Notice mailed November 2, 2001, which set a period for reply of (2) TWO months from the mailing date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 3, 2002.

Petitioner indicates that the $1300 petition fee should be refunded because the Office action mailed November 2, 2001 was never received. However, a review of the application file reveals no irregularity in the mailing of the Office action. Therefore, the request for a refund of the $1300 petition fee cannot be granted.

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 2824 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

FULWIDER PATTON LEE & UTECHT
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of
Daniel R. Kurz et al
Application No. 09/970,390
Filed: October 2, 2001
Attorney Docket No. MICRU:58614

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 9, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

---

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed 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 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 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 3731 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

WONG CABELLO LUTSCH
RUTHERFORD & BRUCCULERI, P.C.
20333 SH 249, SUITE 600
HOUSTON, TX 77070

COPY MAILED

JUN 0 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lori A. Houston :
Application No. 09/970,427 :
Filed: October 3, 2001 :
For: VIRTUAL VEGAS VIDEO KEYBOARD :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 8, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time submitted with the petition on April 8, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being forwarded to Technology Center AU 3713.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Shulamit Eyal	:	DECISION ON
Application No. 09/970,453	:	PETITION
Filed: October 2, 2001	:	
Attorney Docket No. 20174C-002410US	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed October 05, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed February 23, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A Notice of Abandonment was mailed on September 14, 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 a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final office action of February 23, 2007 is accepted as having been unintentionally delayed.

Technology Center AU 1641 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed October 05, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3276.

Rafael Bacares
Petitions Attorney
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAIL

MAR 1 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Franklyn PEART, et al.
Application No. 09/970,462
Filed: October 2, 2001
For: METHOD FOR DISTRIBUTED PROGRAM EXECUTION WITH WEB-BASED FILE-TYPE ASSOCIATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 27, 2004.

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

The request is **GRANTED.**

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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OFFICE OF PETITIONS

In re Application of	:	
Attila T. Lorincz et al.	:	
Application No. 09/970,477	:	DECISION GRANTING PETITION
Filed: October 4, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2629-4005US4	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 2007, 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 14, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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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George T. Noe
Fluke Corporation
P.O. Box 9090
Everett WA 98206-9090

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OFFICE OF PETITIONS

In re Application of :
Pardhy, et al. :
Application No. 09/970,495 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 0670 US (F0349) :
For: MULTIPLE PING MANAGEMENT

This is a decision on the petition, filed December 21, 2005 (certificate of mailing date December 19, 2005), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 16, 2004 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on March 17, 2005. A Notice of Abandonment was mailed on August 25, 2005.

Applicants have submitted an amendment in reply to the December 16, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 16, 2004 non-final Office action, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2157 for consideration of the amendment filed on December 21, 2005 (certificate of mailing date December 19, 2005).

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

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

CC: DELLETT & WALTERS
P. O. BOX 82788
PORTLAND, OR 97282-0788

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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COHEN PONTANI LIEBERMAN & PAVANE
SUITE 1210
551 FIFTH AVENUE
NEW YORK, NY 10176

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Gunnar Aija et al :
Application No. 09/970,499 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 4925-145 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 5, 2005, 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 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2113 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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : December 6, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Gunnar Aija et al
Application No. : 09/970,499
Filed : October 4, 2001

The above-identified application has been assigned Patent No. 6,978,393 and an issue date of December 20, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 20, 2005:

"All reference to Patent No. 6,978,393 to Gunnar Aija et al of Rimforsa, SWEDEN for CRASH RECOVERY SYSTEM appearing in the Official Gazette of December 20, 2005 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison; MDW, Suite 04B03 (FAX-571-273-5468)
Deneise Boyd, MDE, Suite 03D39 (FAX-571-273-5124)
Mary Louise McAskill, South Tower, Suite 8C15(FAX 305-4372)
Niomi Farmer, South Tower, Suite 8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE, Suite 07C71 (FAX-571-273-0038)
Duane Davis (CDS), MDE, Suite 07D89
Tamara K. Greene, South Tower, Suite 08C13

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/5/06

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 6,939,950

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

SPE

1646
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

JUN -5 2003

In re Application of:
Frank G. Mikalauskas
Serial No.: 09/970,550
Filed: October 03, 2001
Attorney Docket No.: 20206-027

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 16, 2003.

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

The request meets all the above stated requirements. The request was signed by Leah Sherry on behalf of himself/herself and all the attorneys of record. An Office action was mailed on March 10, 2003. There is at least thirty days remaining between the date of this decision and the expiration date of the maximum time period for response

The request is **APPROVED**.

The are no attorneys of record at this time.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Hewlett-Packard Company
Intellectual Property Administration
Attn: Bill Streeter
P.O. Box 27200
Fort Collins, CO 80527-2400

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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Patent No. 6,994,725
Issue Date: February 7, 2006
Application No. 09/970,559
Filed: October 3, 2001
Attorney Docket No. 13447.46

NOTICE

This is a notice regarding your request, filed Deceber 19, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

JEFFERY G. SHELDON,
SHELDON & MAK
225 SOUTH LAKE AVENUE
SUITE 900
PASENDENA CA 91101

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OFFICE OF PETITIONS

In re Application of
Terence M. Riley, et al.
Application No. 09/970,568
Filed: October 3, 2001
Attorney Docket No. 14633

ON PETITION

This is a decision on the petition, filed October 22, 2003, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed November 6, 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. A Notice of Abandonment was mailed May 29, 2003.

It is noted that a Revocation and Power of Attorney filed October 8, 2003 on behalf of the assignee was erroneously accepted by a letter mailed October 18, 2003, since no Certificate under 37 CFR 373(b) was received. However, in view of the Statement Under 37 CFR 3.73(b) filed November 5, 2003, the Revocation and Power of Attorney filed October 8, 2003, is acceptable. USPTO records will be changed accordingly.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 3749 for consideration of the amendment filed October 22, 2003.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 12

TYCO TECHNOLOGY RESOURCES
SUITE 450
4550 NEW LINDEN HILL ROAD
WILMINGTON DE 19808

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MAY 30 2003

OFFICE OF PETITIONS

In re Application of :
Noboru Yasuda et al :
Application No. 09/970,570 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 51441 US :

This is a decision on the petition, filed May 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 9, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on May 28, 2003, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joseph A. Tessari appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Tessari desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted.

---

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

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center Art Unit 2831 for processing of the request for continued examination under 37 CFR 1.114 filed May 28, 2003.

Karen Creasy

Karen Creasy
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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/23/2010

Applicant	: Peter J. Black	: DECISION ON REQUEST FOR
Patent Number	: 7596090	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/970,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1475** 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 7

FEB 0 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Marcus J. Millet
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, NJ 07090

In re Application of:
Ryan Raz
Application No. 09/970,610
Filed: October 4, 2001
For: NEURAL NETWORK ASSISTED MULTI-SPECTRAL SEGMENTATION SYSTEM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 15, 2003.

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

The request filed September 15, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: VERACEL INC.
59 Adelaide Street, East, 4th Floor.
Toronto Ontario M5C1K9 Canada

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OFFICE OF PETITIONS

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

In re Application of :
Robert Huber :
Application No. 09/970,619 :
Filed: 4 October 2001 :
Attorney Docket No. 2000 P 7978 US 01 :

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed 2 May 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.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed 6 October 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on 7 January 2005.

A grantable petition 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; in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; the Commissioner may require additional information where there is a question whether the delay was unintentional.
(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. In addition, a terminal disclaimer and fee is also required for a utility or plant application filed on or after June 8, 1995 but before May 29, 2000, where the application became abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995 but before May 29, 2000, are eligible for patent term extension under former 35 U.S.C. 154(b) as a result of the Uruguay

Round Agreement. See 35 U.S.C. 154(b) (1999); see also 37 CFR 1.701. If such an application is abandoned (1) during appeal, (2) during interference, or (3) while under secrecy order, the patentee of a patent issuing from such an application is eligible for patent term extension for the entire period of the abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

The instant petition lack(s) item(s) (2) above, in that the petition fee as set forth in 37 CFR 1.17(m) has not been provided. While it is acknowledged that the form PTO/SB/64 indicates that the petition fee was enclosed, no fee was provided. Additionally, no authorization has been provided to charge the customer account.

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

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

By hand: Customer Window located at:

2011 South Clark Place
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Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Erik Kielin at (571) 272-6051 or, in his absence, to the undersigned at (703) 308-3865.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Robert Huber :
Application No. 09/970,619 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 2000 P 7978 US 01 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 11, 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 nonfinal Office action mailed October 6, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 7, 2005.

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

This matter is being referred to Technology Center AU 2193.

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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Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin NJ 08830

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Huber :
Application No. 09/970,619 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 2000 P 7978 US 01 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 26, 2007, 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 Notice of Allowance and Fee(s) Due, mailed October 19, 2006. Accordingly, this application became abandoned on January 20, 2007. A Notice of Abandonment was mailed on February 16, 2007.

Applicant has submitted a proper reply in the form of the $1,400.00 issue fee, the $300.00 publication fee, and a completed PTOL-85B, an acceptable statement of the unintentional nature of the delay in responding to the October 19, 2006 Notice of Allowance and Fee(s) Due, and the $1,500.00 petition fee.

The petition is **granted**.

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

This application 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: FRANK J. NUZZI
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

Christopher C. Campbell
Hunton & Williams
1900 K. Street, NW
Suite 1200
Washington, DC 20006-1109

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FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth J. Molee :
Application No. 09/970,673 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 53394.000525 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 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 20, 2003, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on January 21, 2004. See MPEP 1215.04.

The application file is being forwarded to Technology Center AU 3761, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

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JAN 1 5 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,717
Filed: October 5, 2001
Attorney Docket No.200701/1035
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 7, 2001, and resubmitted on January 10, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Michael L. Goldman establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they 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 inventors through their attorney at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

A $130.00 surcharge for the late filing of the declaration will be charged to Deposit Account No. 14-1138, as authorized in the petition.

The application file is being forwarded to Technology Center 1700 for examination in due course.

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

Christina T Donnell

Christina Tartera Donnell
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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Gregory J. Galvin
c/o Michael Brown, Esq.
Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

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JAN 15 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,717
Filed: October 5, 2001
Attorney Docket No.200701/1035
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

LETTER

Dear Mr. Galvin:

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 Christina Tartera Donnell at (703) 306-5589. 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).

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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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James E. Moon
c/o Michael Brown, Esq.
Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

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JAN 15 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,717
Filed: October 5, 2001
Attorney Docket No.200701/1035
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

LETTER

Dear Mr. Moon:

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 Christina Tartera Donnell at (703) 306-5589. 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).

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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

UNITED STATES PATENT AND TRADEMARK OFFICE

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Timothy J. Davis
c/o Michael Brown, Esq.
Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

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JAN 1 5 2002

OFFICE OF PETITIONS

LETTER

In re Application of
Moon et al.
Application No. 09/970,717
Filed: October 5, 2001
Attorney Docket No.200701/1035
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

Dear Mr. Davis:

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 Christina Tartera Donnell at (703) 306-5589. 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).

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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
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Rochester, NY 14603

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O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of :
HUANG, Chih-Wei :
Application No. 09/970,736 :
Filed: October 03, 2001 :
Attorney Docket No. **401720-1** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Notice of Appeal filed January 12, 2007.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams

TerriWilliams
Petitions Examiner
Office of Petitions

cc: **MR. CHIH-WEI HUANG**
c/o LEO CAPITAL MANAGEMENT, INC.
620 NEWPORT CENTER DRIVE
SUITE 1100
NEWPORT BEACH, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

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KEN G. ANDERSON
925 N GRIFFIN
BISMARCK ND 58501

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
Kent G. Anderson :
Application No. 09/970,747 : DECISION ON PETITION
Filed: October 2, 2001 : UNDER 37 CFR 1.181
For: METHOD :

This is a decision on the paper filed June 28, 2006, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration should be filed within two (2) months from the mailing date of this decision. *Note* 37 CFR 1.181(f).

This application was held abandoned for failure to timely reply to the Nonfinal Rejection mailed November 16, 2005.

Petitioner states that a timely response was submitted on March 13, 2006. However, the evidence submitted with the petition on June 28, 2006, is not sufficient to substantiate that a reply was submitted on March 13, 2006.

Additionally, petitioner is reminded that each distinct subject matter must be contained in a separate paper and signed. See 37 CFR 1.4(c) and (d).

For the reasons stated above, the petition to withdraw the holding of abandonment cannot be granted at this time.

Petitioner may wish to consider filing a petition under the unintentional provisions of 37 CFR 1.137(b). Public Law 97-247, which revised patent and trademark fees, provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." See 37 CFR 1.137(b) in effect as of December 1, 1997. *Note Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 (October 10, 1997), 1203 Off.*

Gaz. Patent Office 63 (October 21, 1997). An "unintentional" petition must be accompanied by the required petition fee.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to 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 of unintentional delay is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. BOX 19928
ALEXANDRIA, VA 22320

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Sasaki et al. :
Application No. 09/970,786 : Decision on Petition
Filed: October 5, 2001 :
Attorney Docket No.: 110796 :

This is a decision on the Petition, filed September 2, 2004, to Withdraw the Holding of abandonment.

The petition is **granted**.

Petitioner avers non-receipt of the Notice of Allowance and Issue Fee Due, and Notice of Allowability, both Notices were mailed April 21, 2004. In support, Petitioner has provided the necessary statements and copies of the docket record where the non-received Office Notices would have been entered had they been received and docketed. Petitioner has demonstrated by a preponderance of the evidence that the Notices were not received.

The Notice of Abandonment is hereby withdrawn. No fee has been charged and none is due.

The application file is being forwarded to Publishing Division for re-mailing of the Notices action. A copy of the Notices are also enclosed herewith.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

Enclosure: April 21, 2004 Notice of Allowance and Issue Fee Due and Notice of Allowability

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BANNER & WITCOFF, LTD.
ATTNYS FOR CLIENT NO. 005222
10 S. WACKER DR., 30TH FLOOR
CHICAGO IL 60606

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of :
Casey et al. :
Application No. 09/970,789 : ON APPLICATION FOR
Filed: October 5, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 005222.00135 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed December 15, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand seven hundred sixty-nine (1,769) days[1], not one thousand one hundred fifty-nine (1,159) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a

[1] Applicants' calculation of Office delay fails to consider, pursuant to 37 CFR 1.702(a)(2), the 228 day delay associated with the mailing of a final Office action on October 17, 2007 (March 4, 2007 to October 17, 2007). Applicants' calculation of applicant delay fails to consider, pursuant to 37 CFR 1.704(b), the 29 days of delay associated with the filing of a RCE on February 15, 2008 (January 18, 2008 to February 15, 2008), the 28 day delay associated with the filing of response after non-final Office action on September 3, 2008 (August 7, 2008 to September 3, 2008), and the 91 day delay associated with the filing of a RCE on June 23, 2009 (March 25, 2008 to June 23, 2009).

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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

---

[2] 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.

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

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

CC: ROSS DANNENBERG
BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
WASHINGTON, D.C. 20005

FROM DIRECTORS OFFICE

MAR 2 4 2006

TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re application of
Christian Lema et al.
Application No. 09/970,801 : DECISION ON REQUEST
Filed: October 05, 2001 : FOR WITHDRAWAL OF
For: SYSTEM AND METHOD FOR : ATTORNEY
RECOMMENDING A WIRELESS PRODUCT
TO A USER

This is a decision on the request filed on March 18, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. 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.

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MAR 2 4 2006

TECHNOLOGY CENTER 3600

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), given the statements included in the request that, "QUANTUMSHIFT, Inc., a former client of Finnegan, Henderson, Farabow, Garrett & Dunner, has filed for dissolution in California and there has been a breakdown in the attorney-client relationship related to the above reference application." It is not clear that the statements satisfy one of the valid reasons for withdrawal under 37 CFR 10.40 (b) (1)-(4) or (c) (1)-(6). Furthermore, the client is assumed to be those who gave power of attorney, in this case, the inventors, unless proof of assignment is in the file. No such proof is in the file. Therefore, the reason based on an assignee is unacceptable.

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

KJD/slb: 03/16/06

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of
Dean A. Falb et al.
Application No. 09/970,820
Filing Date: October 5, 2001
Attorney Docket No. : 7853-0248
Title: COMPOSITIONS AND METHODS FOR THE TREATMENT AND DIAGNOSIS OF CARDIOVASCULAR DISEASE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 4, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application numbers 09/176,330, filed on October 22, 1998 and 08/485,573,filed on June 7, 1995, as in an amendment to the specification filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after

expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first line of the specification, 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 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 application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This matter is being referred to Technology Center Art Unit 1633 for appropriate action on the amendment filed April 4, 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 applications.

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

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

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JAN 15 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,824
Filed: October 5, 2001
Attorney Docket No.200701/1036
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed November 7, 2001, and resubmitted on January 10, 2002.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Michael L. Goldman establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that they 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 inventors through their attorney at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

A $130.00 surcharge for the late filing of the declaration will be charged to Deposit Account No. 14-1138, as authorized in the petition.

The application file is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries regarding this decision 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

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

Gregory J. Galvin
c/o Michael Brown, Esq.
Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

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JAN 15 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,824
Filed: October 5, 2001
Attorney Docket No.200701/1036
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

LETTER

Dear Mr. Galvin:

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 Christina Tartera Donnell at (703) 306-5589. 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).

Christina Tartera Donnell

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

Michael L. Goldman
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

UNITED STATES PATENT AND TRADEMARK OFFICE

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Timothy J. Davis
c/o Michael Brown, Esq.
Brown & Michaels, PC
400 M & T Bank Building
118 North Tioga Street
Ithaca, NY 14850

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JAN 1 5 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,824
Filed: October 5, 2001
Attorney Docket No.200701/1036
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

LETTER

Dear Mr. Davis:

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 Christina Tartera Donnell at (703) 306-5589. 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).

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

Michael L. Goldman
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UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 1 5 2002

OFFICE OF PETITIONS

In re Application of
Moon et al.
Application No. 09/970,824
Filed: October 5, 2001
Attorney Docket No.200701/1036
For: INTEGRATED MONOLITHIC MICROFABRICATED ELECTROSPRAY AND LIQUID CHROMATOGRAPHY SYSTEM AND METHOD

LETTER

Dear Mr. Moon

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 Christina Tartera Donnell at (703) 306-5589. 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).

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

Michael L. Goldman
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Clinton Square
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Rochester, NY 14603

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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

FLESHNER & KIM
P.O. Box 221200
Chantilly, VA 20153

In re Application of: SONG, Chi-Jung
Application No.: 09/970,876
Filing Date: October 05, 2001
Atty Docket No.: LGS/P-0127A
For: AREA ARRAY TYPE SEMICONDUCTOR PACKAGE AND FABRICATION METHOD

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT (37 CFR 1.181) AND PETITION FOR REVIVAL (37 CFR 1.137(b))

This decision is issued in response to the "Petition To Withdraw Holding Of Abandonment Based On Failure To Receive A Notice Of Allowance And To Request Acceptance Of Late Payment Of The Issue Fee Pursuant To M.P.E.P. §§ 711.03(c)(II)(A)(1)" filed June 02, 2005 (treated herein as a petition under 37 CFR 1.181) and the "Petition For Revival Of A Patent Application Unintentionally Abandoned Under 37 CFR § 1.137(b)" filed June 02, 2005. Applicant has authorized a charge to Deposit Account No. 16-0607 for the required petition fee in the petition under 37 CFR 1.137(b).

BACKGROUND

On December 14, 2004, a "Notice Of Allowance" (Form PTOL-85) and a "Notice Of Allowability" (Form PTOL-37) were issued herein. The Notice of Allowance required payment of the issue and publication fees within three months. The Notice of Allowance was properly addressed to the correspondence address of record at the time, specifically, the correspondence address then associated with Customer Number 34610 (Fleshner & Kim, 14500 Avion Parkway, Suite 125, Chantilly, VA 20151).

The USPS subsequently returned the Notice of Allowance and the Notice of Allowability to the USPTO; the returned envelope indicated that the address used was not current and that the forwarding time had expired with respect to such address.

On March 09, 2005, the correspondence address associated with Customer Number 34610 was updated to the address set forth above.

On April 25, 2005, the USPTO issued a "Notification Of Abandonment" (Form PTO-90C) indicating that the application was abandoned for failure to file a timely and proper response to the Notice Of Allowance.

On June 02, 2005, applicant filed the petitions considered herein. The petition under 37 CFR 1.181 requests withdrawal of the holding of abandonment based on applicant's failure to receive the Notice Of Allowance mailed December 14, 2004. If this petition is dismissed,

applicant requests that the alternative petition for revival under 37 CFR 1.137(b) filed therewith be granted.

DISCUSSION

1. Petition To Withdraw Holding Of Abandonment (37 CFR 1.181):

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to withdraw a holding of abandonment where the abandonment is based on applicant's failure to respond to an Office communication that was not received by the applicant. However, such petitions are designed to protect applicants from adverse consequences caused through no fault of the applicant, i.e., where an Office communication has been lost in the mail by the USPS, or where the USPTO has used an incorrect address for an Office communication.

In the present case, the Office communication was properly addressed by the USPTO to the correspondence address of record at the time, and it was not lost in the mail by the USPS. Instead, the envelope containing the Office communication was returned to the USPTO with a notation stating that the "forward time expired" with respect to the address used. This USPS notation and the subsequent updating of the correspondence address associated with Customer Number 34610 implies that applicant's failure to receive the Office communication resulted not from an error by the USPTO or the USPS, but rather from the failure to of counsel to update the correspondence address associated with their Customer Number prior to the expiration of the USPS's forwarding period for their previous address.

Because the current record supports a conclusion that the failure of applicant to receive the Notice of Allowance mailed December 14, 2004 was the result of applicant's delay in updating the correspondence address of record (rather than any error on the part of the USPTO or the USPS), withdrawal of the abandonment based on applicant's failure to receive the Notice of Allowance would be inappropriate at this time.

2. Petition For Revival Of Application (37 CFR 1.137(b)):

Applicant's June 02, 2005 submission requests that the petition for revival under 37 CFR 1.137(b) be considered if the petition for withdrawal of the abandonment under 37 CFR 1.181 is dismissed. As discussed above, the petition under 37 CFR 1.181 is being dismissed in the present decision. Accordingly, the alternative petition for revival under 37 CFR 1.137(b) is properly considered herein

As noted above, the present application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed December 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on March 14, 2005.

On June 02, 2005, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of

unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

CONCLUSION

The petition under 37 CFR 1.181 for withdrawal of the abandonment is therefore **DISMISSED** without prejudice.

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

Deposit Account No. 16-0607 will be charged the required $1500 petition fee for the petition under 37 CFR 1.37(b).

The application file is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney-Advisor

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Richard Takahashi
PO Box 12105
Tempe, AZ 85824-0036

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OFFICE OF PETITIONS

In re Application of Langston et al. :
Application No. 09/970,901 : Decision on Petition
Filing Date: October 4, 2001 :
Attorney Docket No. 044.0006 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2006, 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 April 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 8, 2006. A Notice of Abandonment was mailed on October 3, 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.

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

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SANDIA CORPORATION
P O BOX 5800
MS-0161
ALBUQUERQUE, NM 87185-0161

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DEC 12 2008

In re Patent of Robertson et al. :
Patent No. 7,362,859 :
Issue Date: April 22, 2008 : Decision on Petition
Application No. 09/970,912 :
Filing Date: October 4, 2001 :
Attorney Docket No. SD-6769.1/S96421 :

This is a decision on the petition under 37 CFR 1.182 filed July 21, 2008, to correct the spelling of the inventor's name by way of the previously proffered certificate of correction. The petition is also being treated as a petition under 37 CFR 1.181.

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

The petition under 37 CFR 1.182 is **dismissed as moot**.

Facts

The correct name of the first inventor is Perry Robertson, not Robert Robertson. The inventor's name is listed correctly in six different places in the papers filed October 4, 2001, and the inventor signed the declaration listing his name as Perry Robertson. Only the inventor's typed name on the declaration states his name is Robert Robertson.

The application claimed priority to Provisional Application No. 60/238,678. Office computer records indicate the name of the first inventor designated in the provisional application as Perry Robertson.

A Notice to File Corrected Application Papers mailed November 7, 2001, listed the inventor's name as Robert Robertson.

The response to the Notice included a copy of the Notice with the "Robert" portion of the inventor's name marked-out and an indication the name should be "Perry."

A Notice to File Corrected Application Papers mailed March 25, 2002, listed the inventor's name as Perry Robertson. The Notice did not state, and was not accompanied by any paper stating, that petitioner needed to take any further steps to correct the first inventor's name. Papers

mailed by the Office on 12/16/04, 6/3/05, 3/3/06, 8/14/06, 1/29/07, and 4/27/07 listed the first inventor's name as Perry Robertson. The Notice of Allowance mailed September 28, 2007, also listed the first inventor's name as Perry Robertson.

The name of the first inventor listed on the first patent is Robert Robertson. Petitioner field a request for a certificate of correction on April 28, 2008. The request sought to change the name on the patent from "Robert J. Robertson" to "Perry J. Robertson." A decision denying the request for the certificate of correction was mailed June 24, 2008. The decision stated a petition under 37 CFR 1.182 was necessary.

The instant petition was filed July 21, 2008.

Discussion

The Office will initially treat the petition as a petition under 37 CFR 1.181 requesting review of the requirement for petitioner to file a petition under 37 CFR 1.182 in order to correct the error.

MPEP 605.04(b) states,

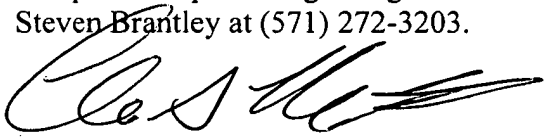
> Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

The Decisions and Certificates of Correction Branch determined the error was not simply a typographical or transliteration error. Based on the limited information provided in the June 24, 2008 request, the decision was correct. However, petitioner has supplied additional information in the petition filed July 21, 2008.

Upon review of the entire record, including the petition filed July 21, 2008, the Office has determined a petition under 37 CFR 1.182 will not be required to correct the error. Therefore, the petition under 37 CFR 1.182 is dismissed as moot and the $400 fee will not be charged to petitioner's deposit account.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested Certificate of Correction in due course.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Gibbons, Del Deo, Dolan, Griffinger & Vechione
1 Riverfront Plaza
Newark, New Jersey 07102-5497

MAILED

FEB 19 2002

Technology Center 2100

In re Application of: A. James Smith Jr.
Application No. 09/970,955
Filed: October 4, 2001
For: METHODS AND APPARATUS FOR SECURING A LIST OF PASSWORDS AND PERSONAL IDENTIFICATION NUMBERS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(c) AND MPEP § 708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed November 28, 2001, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

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

The petition includes a declaration by applicant, A. James Smith Jr., asserting that he is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

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

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

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JUN 07 2002

OFFICE OF PETITIONS

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

In re Application of
Todd L. Khacherian et al
Application No. 09/971,049
Filed: October 3, 2001
Attorney Docket No. 6979-0017

:
:DECISION REFUSING STATUS
:UNDER 37 CFR 1.47(a) AND
:NOTICE OF ABANDONMENT
:

This is in response to the petition under 37 CFR 1.47(a), filed May 8, 2002.

The petition is dismissed.

Any request for reconsideration must be submitted within TWO MONTHS from the mail date of this decision.

A review of the file record discloses that this application was filed without an executed declaration. Accordingly, on October 31, 2001, a Notice to File Missing Parts was mailed, requiring the submission of an executed oath or declaration and a surcharge for its late filing. In reply, on May 8, 2002, petitioner submitted a $65 surcharge fee, a four month extension of time fee of $720, the instant petition and petition fee.

The substitute drawings in compliance with 37 CFR 1.84, have not been received. Since the Notice mailed on October 31, 2001 required the substitute drawings, and since no drawings were submitted with the petition under 37 CFR 1.47(a), this application is regarded as abandoned as of May 1, 2002. While petitioner submitted a petition under 37 CFR 1.47(a), the mere filing of the petition does not stay the period set for supplying the complete required reply, which, in this instance, included the submission of substitute drawings.

In view of the abandoned status of this application, petitioner should consider filing a petition under either the provisions of 37 CFR 1.137(a) or 1.137(b). If, drawings as required by the Notice of October 31, 2001 were in fact timely submitted, petitioner should file a petition requesting withdrawal of the holding of abandonment and supply evidence in support of the timely submission of the drawings, i.e., stamped return post card receipt or compliance with 37 CFR 1.8(b).

As to the petition under 37 CFR 1.47(a), a grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or 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 submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the residence, mailing address and citizenship of joint inventor John Wallner. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventors on behalf of themselves and on behalf of non-signing inventor John Wallner is required. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

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

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop 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 S. Clark Place
Arlington, VA 22202

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

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
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Paper No. 13

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Todd L. Khacherian et al	:	
Application No. 09/971,049	:	DECISION GRANTING
Filed: October 3, 2001	:	STATUS UNDER 37 CFR 1.47(a)
For: VARIABLE LENGTH SWITCH FABRIC	:	

This is in response to the petition filed July 31, 2002, requesting reconsideration of a decision mailed June 7, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

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. 12

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Todd L. Khacherian et al :
Application No. 09/971,049 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 6979-0017 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the substitute drawings in compliance with 37 CFR 1.84 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 31, 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 1, 2002.

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JOHN WALLNER
26500 W. AGOURA ROAD, #381
AGOURA HILLS, CA 91302

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AUG 2 3 2002
OFFICE OF PETITIONS
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SEP 1 3 2002
Technology Center 2100

In re Application of
Todd L. Khacherian; John Wallner; Darrin McGavin Patek; Shaun Clem
Application No. 09/971,049
Filed: October 3, 2001
For: VARIABLE LENGTH SWITCH FABRIC

Dear Mr. Wallner:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. 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:

Coudert Brothers LLP
600 Beach Street, 3rd Floor
San Francisco, CA 94109-1312

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Paper No. 13

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

COPY MAILED
AUG 23 2002
OFFICE OF PETITIONS

In re Application of :
Todd L. Khacherian et al :
Application No. 09/971,049 : DECISION GRANTING
Filed: October 3, 2001 :STATUS UNDER 37 CFR 1.47(a)
For: VARIABLE LENGTH SWITCH :
FABRIC :

This is in response to the petition filed July 31, 2002, requesting reconsideration of a decision mailed June 7, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

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

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Paper No. 12

COUDERT BROTHERS LLP
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SAN FRANCISCO, CA 94109-1312

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AUG 23 2002
OFFICE OF PETITIONS

In re Application of :
Todd L. Khacherian et al :
Application No. 09/971,049 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 6979-0017 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the substitute drawings in compliance with 37 CFR 1.84 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed October 31, 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 1, 2002.

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

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United States Patent and Trademark Office
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APR 30 2008

OFFICE OF PETITIONS

JHK LAW
P.O. BOX 1078
LA CANADA, CA 91012-1078

In re Application of :
Cynthia C. Bamdad :
Application No. 09/971,056 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. M01015/70067 TJO :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2007.

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 $525 extension of time submitted with the petition on December 14, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

This matter is being referred to Technology Center AU 1641 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6696483	2004-02-24	09971062	2001-10-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Saira Sayed Singh/	Date (YYYY-MM-DD)	2009-01-16
Name	Saira Sayed Singh		

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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www.uspto.gov

In re Patent No. 6696483
Issue Date: February 24,2004
Application No. 09971062
Filed: October 3,2001
Attorney Docket No. 6850-0002

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

This is a decision on the electronic petition, filed January 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 16,2009 . 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
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

February 10, 2004

William J. Kubida
Hogan & Hartson
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202

In re application of:
Brendan McCarthy
Serial No.: 09/071,063
Filed: October 3, 2001

DECISION ON PETITION

For: METHOD AND APPARATUS FOR COMPUTER SYSTEM ENGINEERING

This is a decision on the petition received by fax on December 30, 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 November 8, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 9, 2002. A notice of abandonment was mailed on December 19, 2003.

On December 30, 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 February 11, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on February 11, 2002 with a certification of mailing dated January 16, 2001 and one month of extension.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2121.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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ZAGORIN O'BRIEN GRAHAM LLP (037-A)
7600B N. CAPITAL OF TX HWY
STE. 350
AUSTIN TX 78731

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SEP 17 2008

In re Application of
Hitesh Shah
Application No. 09/971,080
Filed: October 3, 2001
Attorney Docket No. 037-0067

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed June 5, 2008 under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application 09/691,800 filed October 19, 2000.

The petition is **GRANTED**.

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

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

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

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

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

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2617 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/971,080	10/03/2001	2617	2490	037-0067	54	5

CONFIRMATION NO. 2094

CORRECTED FILING RECEIPT

67677
ZAGORIN O'BRIEN GRAHAM LLP (037-A)
7600B N. CAPITAL OF TX HWY
STE. 350
AUSTIN, TX 78731

OC00000031875972

Date Mailed: 09/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hitesh Shah, Seattle, WA;

Assignment For Published Patent Application

AT&T Wireless Services, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 67677

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/237,439 10/03/2000
and is a CIP of 09/691,800 10/19/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 11/07/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/971,080**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SHARING OF WIRELESS TELEPHONE SERVICES FOR A PERSONAL WIRELESS TELEPHONE AND A VEHICULAR WIRELESS TELEPHONE

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

FOLEY & LARDNER
3000 K ST NW
SUITE 500
WASHINGTON DC 20007-8696

In re	:	
Kemp, II., et al.	:	DECISION ON APPLICATION
Application No. 09/971,087	:	FOR PATENT TERM ADJUSTMENT
Filed: October 5, 2001	:	
Attorney Docket No. 024051-0146	:	

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed February 8, 2006, notifying the Office of an error in Applicants' favor in the determination of patent term adjustment under 35 U.S.C. 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred nine (109)**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred nine (109) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 12, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand, four hundred thirty seven (1437) days.

The Office initially determined a patent term adjustment of one thousand, four hundred thirty-seven (1437) days based on an adjustment for PTO delay of one thousand, four hundred thirty seven (1437)days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by zero (0) days of applicant delay.

The adjustment of one thousand, four hundred thirty-seven (1437) days was is error. Applicants filed the application on October 5, 2001. The Office mailed the first Office action under 35 USC when the Notice of Allowability was mailed on March 24, 2003.[1] Accordingly, PTO delay should only have been assessed as one hundred nine (109) days, not one thousand, four hundred thirty-seven (1437) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred nine (109) days**.

As the instant letter was submitted to advise the Office of an error in Applicants' favor, no fee was required.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

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

Enc: Copy of adjusted PAIR calculation

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[1] "A written restriction requirement, a written election of species requirement, a requirement for information under 1.105, an action under Ex parte Quayle, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132." Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000).

Day : Thursday
Date: 9/14/2006

PALM INTRANET

Time: 14:08:15

PTA Calculations for Application: 09/971087			
Application Filing Date:	10/05/2001	PTO Delay (PTO):	1437
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	109
PTO Delay Adjustment:	-1328		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	09/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1437	
46	09/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	109		
36	01/12/2006	MAIL NOTICE OF ALLOWANCE	1437		1
35	10/20/2003	ISSUE REVISION COMPLETED			
34	11/13/2001	ISSUE REVISION COMPLETED			
33	11/14/2002	ISSUE REVISION COMPLETED			
32	12/18/2002	ISSUE REVISION COMPLETED			
31	02/11/2003	REFERENCE CAPTURE ON IDS			
30	05/11/2005	ISSUE REVISION COMPLETED			
28	05/11/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	05/03/2005	NOTICE OF ALLOWABILITY			
26	10/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	03/21/2003	DATE FORWARDED TO EXAMINER			
23	03/10/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)			
22	03/21/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
21	02/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/10/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
19	12/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	10/16/2002	MISCELLANEOUS INCOMING LETTER			
17	11/14/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

16	09/30/2002	NOTICE OF ALLOWABILITY			
15	09/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	09/27/2002	PRELIMINARY AMENDMENT			
13	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	03/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	02/19/2002	APPLICATION DISPATCHED FROM OIPE			
10	02/11/2002	APPLICATION IS NOW COMPLETE			
8	01/29/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	01/29/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	01/29/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	01/29/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	10/29/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	10/29/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/05/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

COPY MAILED

JUN 03 2002

OFFICE OF PETITIONS

In re Application of :
John Wallner et al :
Application No. 09/971,097 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 06979-0013 :

This is in response to the petition under 37 CFR 1.47(a), filed April 22, 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 items (2) set forth above.

As to item (2), the declaration submitted with the petition is not in compliance with 37 CFR 1.63 and 1.64. The declaration fails to set forth the residence mailing address and citizenship of joint inventor John Wallner. Accordingly, a declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventors on behalf of themselves and on behalf of nonsigning inventor John Wallner is required. Note MPEP 409.03(a); MPEP 602, and MPEP 605.01.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

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

By mail:
U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop 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 S. Clark Place
Arlington, VA 22202

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

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. 9

COUDERT BROTHERS LLP
600 BEACH STREET, 3RD FLOOR
SAN FRANCISCO, CA 94109-1312

COPY MAILED

AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
John Wallner et al :
Application No. 09/971,097 : DECISION GRANTING
Filed: October 3, 2001 :STATUS UNDER 37 CFR 1.47(a)
For: SWITCHING APPARATUS FOR :
HIGH SPEED CHANNELS USING :
MULTIPLE PARALLEL LOWER SPEED
CHANNELS WHILE MAINTAINING
DATA RATE

This is in response to the petition filed July 30, 2002, requesting reconsideration of a decision mailed June 3, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

This application is being forwarded to the Initial Patent Examination Unit.

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

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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AUG 2 3 2002

OFFICE OF PETITIONS

JOHN WALLNER
26500 W. AGOURA ROAD, #381
AGOURA HILLS, CA 91302

In re Application of
John Wallner; Todd L. Khacherian; Darrin McGavin Patek; Shaun Clem; Jimmy Pu; Chris Reed
Application No. 09/971,097
Filed: October 3, 2001
For: SWITCHING APPARATUS FOR HIGH SPEED CHANNELS USING MULTIPLE PARALLEL LOWER SPEED CHANNELS WHILE MAINTAINING DATA RATE

Dear Mr. Wallner:

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

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

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. 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:

Coudert Brothers LLP
600 Beach Street, 3rd Floor
San Francisco, CA 94109

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LEXICON GENETICS INCORPORATED
8800 TECHNOLOGY FOREST PLACE
THE WOODLANDS TX 77381-1160

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Hu, et al. : DECISION ON PETITION
Application No. 09/971,121 :
Filed: October 4, 2001 :
Docket No.: LEX-0250-USA :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 26, 2004.

This application was held abandoned June 11, 2003 for failure to timely submit a proper reply to the non-final Office action mailed March 10, 2003. Notice of Abandonment was mailed February 20, 2004.

Petitioners assert that a response to the non-final Office action was timely submitted on June 16, 2003 and has submitted as proof of USPTO receipt of the reply a return postcard dated stamped June 16, 2003. In accordance with 37 CFR 1.8, the copy of the response bearing a certificate of mailing date of June 10, 2003 has been submitted.

The original amendment submitted June 16, 2003 has not been located. However, in view of the evidence presented, 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 Technology Center 1600 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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UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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4092 SKIPPACK PIKE
P.O. BOX 650
SKIPPACK PA 19474

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MAR 0 6 2003

OFFICE OF PETITIONS

Applicant: Gao
Appl. No.: 09/971,157
Filing Date: October 4, 2001
Title: INTEGRATED RARE EARTH DOPED OPTICAL WAVEGUIDE AMPLIFIER ARRAY
Attorney Docket No.: PHX-0016C1
Pub. No.: US 2002/0186949 A1
Pub. Date: December 12, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on January 13, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors in that "10^{12}" is misspelled as "1012", "λ_p" is misspelled as "π_p" and "R_s" is misspelled as "R_x".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request does not identify a material mistake in the publication made by the Office:

The errors in the specification are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The misspelling of "terabit (1012)" for –terabit (10^{12})-- is a minor typographical and not a material error as the phrase is in parentheses and is correctly identified as terabit, which is "10^{12}", thus the technical disclosure and the claims are understandable.

The misspelling of "pump light π_p" for --pump light λ_p-- is not a material mistake, as the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The mistake is a minor typographical error, which is clearly understandable from reading the specification and the context in which the term is used as the term is not read in a vacuum, as the term is correctly spelled several times in the same paragraph referencing the "pump light" and the phrase is used in referencing the figures and the figures contain the phrase correctly labeled.

---

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The misspelling of "R_x" for --R_s-- is not a material mistake, as the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The mistake is a minor typographical error, which is clearly understandable from reading the specification and the context in which the term is used as the term is not read in a vacuum, as the term is used in referencing the figures and the figures contain the term correctly labeled.

The errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

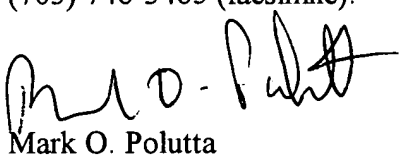
The application is being forwarded to Technology Center Art Unit 2882 to await further examination in due course.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



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

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HOUSTON TX 77002

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AUG 2 8 2006

OFFICE OF PETITIONS

In re Application of Morano et al.	:
Application Number: 09/971,172	: DECISION ON PETITION
Patent: 7,039,610 Filing Date: October 4, 2001	:
Issue Date: May 2, 2006	:

This is a decision on the petition filed June 20, 2006 to correct the assignee under 37 CFR 3.81 (b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

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. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must :

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

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[1]See 69 Fed. Reg. 29865 (May 26, 2004).

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i)

Petitioner has failed to provide (A). Petitioner states two assignees were recorded for the above-identified patent. The two assignees are New York Mercantile Exchange, Inc. and International Petroleum Exchange of London, Ltd. International Petroleum Exchange of London, Ltd. was inadvertently omitted from the Issue fee transmittal. A review of the record shows that International Petroleum Exchange of London, Ltd. was an assignee at the time of issuance of the patent. However, petitioner states that assignee International Petroleum Exchange of London, Ltd. name changed to ICE Futures. A review of the assignment records shows that the name change was not recorded prior to the issuance of the patent on May 2, 2006. Assignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the issuance of the patent. Accordingly, a certificate of correction reflecting assignee ICE Futures is not in order.

A review of the record shows that petitioner has not been given the authority to prosecute. The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

By mail:

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

By facsimile:

(571) 273-8300

By delivery service:
FedEx, UPS, DHL, etc.)

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

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Robert S. Rigg
Mayer , Brown , Rowe & Maw LLP
P.O. Box 2828
Chicago, IL 60690-2828

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Paper No. 9

MAXIMILIAN R. PETERSON
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BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

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FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Dorst, Jeffrey R.
Application No. 09/971,196
Filed: October 4, 2001
Attorney Docket No. ZILG524

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 2, 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.

The Request to Rescind Nonpublication Request filed October 3, 2002 is not in itself a notification of foreign filing, as required by the statute. Petitioner stated the USPTO was notified of the foreign filing by the transmittal of PCT application Serial No. PCT/US02/31544. However, the filing of a PCT application does not constitute as a proper Notice of Foreign 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 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 May 27, 2004 was previously mailed on February 17, 2004.

Petitioner submitted $130.00 towards payment of the petition fee. However, the $1300.00 petition fee is necessary. Accordingly, an additional $1170.00 will be charged to petitioner's deposit account as authorized.

This application is being forwarded to Technology Center Art Unit 2186 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

MAXIMILIAN R. PETERSON
O'KEEFE, EGAN & PETERMAN
BUILDING C, SUITE 200
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
AUSTIN, TX 78746

COPY MAILED

FEB 19 2004

OFFICE OF PETITIONS

In re Application of
Dorst, Jeffrey R.
Application No. 09/971,197
Filed: October 4, 2001
Attorney Docket No. ZILG525

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 2, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

The Request to Rescind Nonpublication Request filed October 3, 2002 is not in itself a notification of foreign filing, as required by the statute. Petitioner stated the USPTO was notified of the foreign filing by the transmittal of PCT application Serial No. PCT/US02/31506. However, the filing of a PCT application does not constitute as a proper Notice of Foreign 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 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 May 20, 2004 was previously mailed on February 10, 2004.

Petitioner submitted $130.00 towards payment of the petition fee. However, the $1300.00 petition fee is necessary. Accordingly, an additional $1170.00 will be charged to petitioner's deposit account as authorized.

This application is being forwarded to Technology Center Art Unit 2187 for examination in due course.

Any inquiries concerning this decision may 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

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(For Patent Owner)

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(For Third Party Requester)

MAILED

JUN 0 7 2005

REEXAM UNIT

In re Peters, et al.
Reexamination Proceeding
Control No. 90/004,520
Filed: January 10, 1997
For: U.S. Patent No. 5,045,940

In re Peters, et al.
Reexamination Proceeding
Control No. 90/004,895
Filed: October 31, 1997
For: U.S. Patent No. 5,045,940

In re Peters, et al.
Reexamination Proceeding
Control No. 90/005,274
Filed: February 16, 1999
For: U.S. Patent No. 5,045,940

In re Reissue Application of
Peters, et al.
Application No. 09/971,236
Filed: October 4, 2001
For: U.S. Patent No. 5,045,940

In re Reissue Application of
Peters, et al.
Application No. 08/418,863
Filed: April 7, 1995
For: U.S. Patent No. 5,045,940

DECISION, *SUA SPONTE*, DISSOLVING AND MERGING REISSUE AND REEXAMINATION PROCEEDINGS

The above reissue and reexamination proceedings are before the Office of Patent Legal Administration for *sua sponte* consideration of:

(1) Whether the August 26, 1999 merger of reexamination Control Nos. 90/004,520, 90/004,895, and 90/005,274, and reissue Application No. 08/418,863, should be dissolved at this time; and

(2) Whether reexamination Control Nos. 90/004,520, 90/004,895, and 90/005,274 should, at this time, be merged under 37 CFR 1.565(d) with reissue Application No. 09/971,236.

REVIEW OF FACTS

1. U.S. patent No.5,045,940 (hereinafter, the '940 patent) issued on September 3, 1991, with 16 claims.

2. On September 3, 1993, an application for reissue of the '940 patent was filed, and was assigned application number 08/418,863 (hereinafter, the '863 application).

3. On April 7, 1995, a file-wrapper continuation of the'863 application was filed. The file-wrapper continuation application included newly added claims 68-100 and 102-114, in addition to original claims 1-16 of the '940 patent.

4. A first request for reexamination was filed by a third party requester on January 10, 1997, and the resulting proceeding was assigned control number 90/004,520 (hereinafter, the '4520 proceeding).

5. An order for reexamination of the '4520 proceeding was mailed on March 11, 1997.

6. On April 26, 1997, the '863 reissue application and the '4520 reexamination proceeding were merged.

7. On July 25, 1997, an Office action was mailed for the merged proceeding; all claims were rejected.

8. A second request for reexamination was filed by the third party requester on October 31, 1997, and the resulting proceeding was assigned control number 90/004,895 (hereinafter, the '4895 proceeding).

9. An order for reexamination of the '4895 proceeding was mailed on January 27, 1998.

10. On April 26, 1997, the '863 reissue application and the '4520 and '4895 reexamination proceedings were merged.

11. A third request for reexamination was filed by the third party requester on February 16, 1999, and the resulting proceeding was assigned control number 90/005,274 (hereinafter, the '5274 proceeding).

12. An order for reexamination of the '5274 proceeding was mailed on April 27, 1999.

13. On August 26, 1999, the '863 reissue application and the '4520, '4895, and '5274 reexamination proceedings were merged.

14. Prosecution for the merged proceeding progressed to the point where the examiner's final rejection of the proceeding claims was affirmed by the Board of Patent Appeals and Interferences.[1] The affirmance was appealed to the U.S. Court of Appeals for the Federal Circuit, and the decision of the Board was affirmed by the Federal Circuit.

15. On October 4, 2001, an application for reissue of the '940 patent was flled, and was assigned application number 09/971,236 (hereinafter, the '236 application).

16. The filing of the '236 reissue application was announced in the *Official Gazette* on June 11, 2002.

17. Three preliminary amendments were filed for the '236 reissue application, the last one on December 13, 2004.

18. On May 20, 2005, a Notice of Abandonment was mailed for the '863 reissue application. The Notice stated that the application was abandoned "In view of decision by CAFC, which all claims are affirmed."

DECISION DISSOLVING MERGER OF '863 APPLICATION AND '4520, '4895, AND '5274 PROCEEDINGS

As noted above, the '863 reissue application has been abandoned, based upon the decision by the Federal Circuit affirming the Board. Since the '863 reissue application is now abandoned, the August 26, 1999 merger of '863 reissue application and the '4520, '4895, and '5274 proceedings is hereby dissolved.

Based on the October 4, 2001 filing of the '236 reissue application for the '940 patent, and the announcement of the

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[1] The pending claims that went up on appeal were original patent claims 3 and 7-16, and new claims: 68, 70, 74-84, 86, 87, 89, 93-98, 100, 102-115, 119-148, 150, 154-160. All of the above "pending" claims were finally rejected by the examiner, and the examiner was affirmed on all rejections of these claims.

'236 reissue application in the *Official Gazette*, further action with respect to the three reexamination proceedings will be taken as discussed in the sections of this decision which follow.

DISCUSSION REGARDING MERGER OF '236 APPLICATION AND '4520, '4895, AND '5274 PROCEEDINGS

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, the '236 reissue and the '4520, '4895, and '5274 proceedings are currently pending. Since the order to reexamine has been mailed in all of the reexamination proceedings (and the '236 application has been announced in the *Official Gazette*), a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately, at the same time, as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. In making a decision on whether or not to merge the proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

In the present instance, the '236 reissue application was filed prior to the date on which the three reexamination prosecutions would have terminated based on the Court's affirmance of the Board's decision (affirming the rejection of all the claims in the reexamination proceedings). If the three reexamination prosecutions were now terminated by the Office and a reexamination certificate was permitted to issue, then the provisions of 37 CFR 1.570(d) would apply as follows:

> "If an *ex parte* reexamination certificate has been issued which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto."

Given that the '236 reissue application was filed prior to the date on which the three reexamination prosecutions would have terminated, it would be inequitable to now terminate the three reexamination prosecutions and issue a reexamination certificate. Such a certificate would result in the barring of the '236 reissue application, even though the '236 application was filed prior to the date on which the three reexamination prosecutions would have terminated. In order to prevent this inequity, and, at the same time prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner (for the reissue and reexamination proceedings), it is appropriate that the instant '236 reissue application and the '4520, '4895, and '5274 reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the '236 reissue application and the three reexamination proceedings will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) **is discretionary**. *The present merger is not an assurance that, in a future similar situation, merger would be ordered, since each merger question* [2] *is considered on a case-by-case basis governed by the given fact situation for the merger question to be considered.*

DECISION MERGING THE '236 REISSUE APPLICATION AND '4520, '4895, AND '5274 REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The'236 reissue application and the'4520, '4895, and '5274 reexamination proceedings are hereby **merged** into a single proceeding (hereinafter, "the merged proceeding"). A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Same Amendments in Both Proceedings and to Provide Formal Amendments

1. The patent owner is required to maintain identical amendments in the reissue application and the

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[2] I.e. each decision of whether to merge or supend, or take other appropriate action.

reexamination proceedings for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

A review of the '236 reissue application shows that all of the original patent claims, i.e., claims 1-16, are cancelled, and new claims 17-88 are present. A review of the files for the three reexamination proceedings shows the following claim status:

Pending patent claims: 3 and 7-16.
Canceled patent claims: 1, 2, and 4-6.
Pending new claims: 68, 70, 74-84, 86, 87, 89, 93-98, 100, 102-115, 119-148, 150, 154-160.
Canceled new claims: 17-67, 69, 71-73, 85, 88, 90-92, 99, 101, 116-118, 149, 151-153.

Accordingly, the claims are not identical in both proceedings.

An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision, placing the same amendments in all of cases.

2. For a merged proceeding of a reissue application and an *ex parte* reexamination proceeding, MPEP 2285 states:

> "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

Accordingly, the filing of amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173, and with the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does not apply to amendments in a reissue application. Accordingly, clean copies of the amended claims are not required, *and such clean copies are not to be submitted*. Instead, pursuant to 37 CFR 1.173(b)(2), amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim. Pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing the reissue application. *Amendments are not to be made relative to previous amendments*. Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets.

The December 13, 2004 amendment (confirmation copy filed January 31, 2005) submitted in the '236 reissue application fails to comply with the above. For example, claim 62 uses strike through for "signalling." Also, the text of claims 17-72 is not underlined in its entirety, even though those claims are new to the '940 patent.

An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision, placing the amendments in all of cases in the form required by 37 CFR 1.173.

3. The response to these requirements must be limited to placing the same amendments in all cases and providing the amendments in the form required by the rules. The patent owner must **not** address any issue of patentability in the housekeeping amendment.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate housekeeping amendment (see Part II above) is received, or after the time for same expires, the examiner should promptly prepare an Office action for the merged proceeding.

2. In the event that an appropriate housekeeping amendment is not timely submitted, any claim which does not contain identical text in both proceedings should be rejected under 35 U.S.C. 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. 305 relating to the conduct of *ex parte* reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding. **However, periods for response should be set at TWO (2) months to comply with the statutory requirement for special dispatch in reexamination (35 U.S.C. 305).**

4. Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the '236 reissue application and the three reexamination proceedings. Each action will contain identifying data *for all of the cases*, i.e, the '236 reissue application and the three reexamination

proceedings, and each action will be entered into all files (which will be maintained as separate files). Note that there will **not** be any identifying data nor entry of papers for the '863 reissue application, since the '863 reissue application has been held abandoned, and is no longer merged within the present merged proceeding.

5. Any response by the applicant/patent owner must consist of a single response, with four copies being filed for entry in the four files, with each of the four bearing a signature. Any such response must contain identifying data *for all of the cases*, i.e, the '236 reissue application and the three reexamination proceedings. *Any such responses must be served on the requester*, who will also be sent copies of Office actions. Note that there will **not** be any identifying data nor providing of papers for the '863 reissue application, since the '863 reissue application has been held has been held abandoned, and is no longer merged within the present merged proceeding.

6. Pursuant to MPEP 2285:

> "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

Thus, as pointed out above, the filing of any amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173, and with the guidelines of MPEP 1453. It is to be noted that 37 CFR 1.121 does <u>not</u> apply to amendments in a reissue application. Accordingly, clean copies of the amended claims are not required, *and such clean copies are not to be submitted.* Instead, pursuant to 37 CFR 1.173(b)(2), amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim.

Also as pointed out above, pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and drawings, which are in effect as of the date of filing the reissue application. *Amendments are not to be made relative to previous amendments*. Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets.

7. Where a paper is filed which requires payment of a fee (e.g., petition fee, appeal fee, brief fee, oral hearing fee), only a single fee need be paid. For example, only one fee need be paid for patent owner's appeal brief, even though the brief relates to the merged multiple proceedings, and even though copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner (a) will review the files to ensure that each file contains identical citations of prior patents and printed publications, and (b) will cite such documents as are necessary as part of the next Office action in order to place the files in that condition.

9. If the reissue application ultimately matures into a reissue patent, the three reexamination proceedings shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 CFR 1.570. See MPEP 2285.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be dissolved. The reissue application will be held abandoned. The reexamination prosecution will be terminated, and a reexamination certificate under 37 CFR 1.570 will be issued in accordance with the last action of the Office, unless further action in the reexamination proceeding is needed, e.g., as a result of the difference in the rules relating to reexamination and reissue proceedings. If further action in the reexamination proceeding is needed, any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner, upon dissolution of the merged proceeding. The existence of any questions/issues remaining which could not be considered under reexamination following the dissolution would be noted by the examiner as not being proper for consideration in reexamination pursuant to 37 CFR 1.552(c).

11. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceedings. Such examination would be conducted as set forth in the immediately preceding paragraph.

CONCLUSION

1. The August 26, 1999 merger of '863 reissue application and the '4520, '4895, and '5274 proceedings is dissolved.

2. The'236 reissue application and the '4520, '4895, and '5274 reexamination proceedings **are merged** into a single proceeding.

3. Pursuant to Part II of this decision, it is required that applicant/patent owner file, **within ONE MONTH of this decision**, a housekeeping amendment (A) placing the same amendments in all cases of the present merged proceeding and (B) placing the amendments in the form required by 37 CFR 1.173.

4. The reissue and reexamination proceedings are being forwarded to the examiner via the Director of Technology Center 2600. Upon receipt of same, the examiner **should not issue an Office action for the present merged proceeding of the '236 reissue and reexamination proceedings until after the earlier of** (a) the submission of the housekeeping amendment to place the same amendments in both cases and formalize the amendment or (b) the expiration of the one month period from the mailing of this decision for filing the amendment.

5. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

6. Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-7710.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 6, 2005
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FEB 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Patrick M. Glance et al	:	
Application No. 09/971,251	:	ON PETITION
Filed: October 4, 2001	:	
Attorney Docket No. CONC 35.2-2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed November 8, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 9, 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

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NOV 20 2001

Paper No. 3

In re Application of :
Michael J. Parker :
Serial No. 09/971,259 : DECISION ON PETITION
Filed: October 4, 2001 : TO MAKE SPECIAL
For: TOOL LANYARD FOR HOLDING :
TOOLS :

Applicant's petition, filed October 4, 2001, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

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CESARI AND MCKENNA, LLP
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Mail Date: 06/25/2010

Applicant	: Abhay Kumar Roy	: DECISION ON REQUEST FOR
Patent Number	: 7639680	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/971,298	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/04/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** 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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APR 23 2008

In re Application of
Scott M. McBain et al.
Application No. 09/971,301
Filed: October 5, 2001
Attorney Docket No: **9713**

ON PETITION

This is a decision on the petition filed December 11, 2007, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

The application was held abandoned on May 11, 2003 for failure to timely submit corrected drawings in response to the Notice of Allowability mailed February 10, 2003, and which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed June 25, 2003.

Petitioner asserts that formal drawings were filed March 24, 2003 and submits as proof, a copy of the formal drawings, a certificate of mail pursuant to 37 CFR 1.10 dated March 24, 2003 and a postcard receipt date stamped by the USPTO on March 24, 2003.

A review of USPTO records and the evidence submitted with the petition reveals that the response is of record with a receipt date of March 24, 2003, however, the response was filed with an incorrect serial number and therefore the papers were placed in an incorrect unrelated file.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, other identifiable information was found to be on the papers filed as the response. The response has now been matched with the proper file. In view thereof, the response was timely filed and the Notice of Abandonment mailed June 25, 2003 is hereby withdrawn. No petition fee is due and none has been charged.

Additionally however, there is no indication however that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney

documentation must be submitted. A copy of this decision is being mailed to petitioner as a courtesy, however, no future correspondence will be directed to the petitioner until such time as appropriate instructions are received to the contrary.

This matter is being referred to the Publishing Division to be processed into a Patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

ALAN M. KOENCK
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OFFICE OF PETITIONS

In re Application of :
Benoist et al. :
Application No. 09/971,335 : DECISION ON PETITION
Filed: 10-03-2001 :
Attorney Docket No. 297-010525-US(PAR) :

This is a decision on the petition filed December 1, 2006, to withdraw the holding of abandonment for the above-identified application.

On September 23, 2004, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed response, the application was held abandoned on December 24, 2004. A Notice of Abandonment was mailed on May 17, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt, re-mail the Notice of Allowance, and restart the period for reply.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the Notice of Allowance, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the Notice of Allowance would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the Notice of Allowance was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2617 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new Notice of Allowance. The three (3) month shortened statutory time period for responding to the Notice of Allowance will be set to run from the mailing date of the new Notice of Allowance.

Telephone inquiries related to this decision 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
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Paper No. 14

Warner Lambert Company
2800 Plymouth Road
Ann Arbor, MI 48105

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APR 26 2004

OFFICE OF PETITIONS

In re Application of	:	
John M. Domagla, et al.	:	
Application No. 09/971,343	:	ON PETITION
Filed: October 4, 2001	:	
Attorney Docket No. 5731-D1-01-HMB	:	

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

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1600 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

In re Patent No. 6636336
Issue Date: October 21,2003
Application No. 09971350
Filed: October 4,2001
Attorney Docket No. 35607.0898

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

This is a decision on the electronic petition, filed April 14,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 14,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6636336	2003-10-21	09971350	2001-10-04	49238.0898

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	/Stephen J. Hart/	Date (YYYY-MM-DD)	2008-04-14
Name	Stephen J. Hart		
Enter Reel and Frame Number			Remove
Reel Number	012701	Frame Number	0087
Enter Reel and Frame Number			Remove
Reel Number	018934	Frame Number	0739
Enter Reel and Frame Number			Remove
Reel Number	018934	Frame Number	0755
Click ADD for additional Reel Number and Frame Number			Add

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
James O. Farmer, et al. :
Application No. 09/971,363 :
Filed: October 4, 2001 :
For: SYSTEM AND METHOD FOR COMMUNICATING OPTICAL SIGNALS UPSTREAM AND DOWNSTREAM BETWEEN A DATA SERVICE PROVIDER AND SUBSCRIBERS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

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

The request is **GRANTED.**

Josephine Young is granted the request for withdraw of attorney/agent.
All future communications from the Office will continue to be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6674554
Issue Date: January 6,2004
Application No. 09971377
Filed: October 4,2001
Attorney Docket No. 35607.0896

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

This is a decision on the electronic petition, filed April 14,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 14,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6674554	2004-01-06	09971377	2001-10-04	49238.0896

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

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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	/Stephen J. Hart/	Date (YYYY-MM-DD)	2009-04-14
Name	Stephen J. Hart		
Enter Reel and Frame Number			Remove
Reel Number	012702	Frame Number	0176
Enter Reel and Frame Number			Remove
Reel Number	012733	Frame Number	0456
Enter Reel and Frame Number			Remove
Reel Number	018934	Frame Number	0739
Enter Reel and Frame Number			Remove
Reel Number	018934	Frame Number	0755
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.**

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

V. GERALD GRAFE, ESQ.
P.O. BOX 2689
CORRALES NM 87048

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NOV 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Jake S. Jones : DECISION ON PETITION TO
Application No. 09/971,379 : WITHDRAW HOLDING OF
Filed: 4 October, 2001 : ABANDONMENT
Attorney Docket No. 010-01-003 :

This is a decision on the petition filed on 24 July, 2006, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely response to the Notice of Allowability mailed on 9 March, 2006, which required either corrected drawings or a petition under 37 CFR 1.84(b) to be filed, as required in the Office action of 5 July, 2005. Notice of Abandonment was mailed on 13 July, 2006.

Petitioner asserts that a response to the Notice was timely filed in that a petition under 37 CFR 1.84(b)(1) to accept black and white photographs was filed on 6 June, 2006, within the time period for reply to the Notice mailed on 9 March, 2006. In support, petitioner has supplied a copy of a "Petition to Accept Black and White Photographs" bearing a certificate of mailing dated 6 June, 2006, signed by registered patent attorney V. Gerald Grafe.

The petition to withdraw the holding of abandonment contains a statement by petitioner's counsel, registered patent attorney V. Gerald Grafe, stating that the petition under 37 CFR 1.84(b) was timely filed on 6 June, 2006.

As petitioner has provided convincing evidence that a proper and timely reply to the Notice of Allowability was filed on 6 June, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The application will be referred to the Technology Center for a decision on the petition to accept black and white photographs filed on 24 July, 2006 (certificate of mailing date 6 June, 2006).

The application is being referred to Technology Center Art Unit 2123 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

KENNETH S. WHEELOCK
GE PLASTICS
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201

COPY MAILED

SEP 2 3 2003

OFFICE OF PETITIONS

In re Application of :
John A. Kilgour, et al. :
Application No. 09/971,401 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 60SI01936-8 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 15, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $930 extension of time submitted with the petition on September 2, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 07-0888 as authorized in the instant petition.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1712 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARL M. NAPOLITANO
ALLEN DYER DOPPELT MILBRATH & GILCHRIST, P.A.
255 S. ORANGE AVENUE, SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802

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SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Rolf Meyer et al :
Application No. 09/971,452 : NOTICE
Filed: October 5, 2001 :
Attorney Docket No. 9576.29CON1

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.

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

24 JAN 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Bourque & Associates, P.A.
835 Hanover Street, Suite 301
Manchester, NH 03104

In re Application of	:	
ZBIGNIEW KOCZEWSKI	:	DECISION ON
Application No.: 09/971,493	:	
Filing Date: 05 October 2001	:	PETITION
Attorney's Docket No.: THIELK-011XX	:	
For: INCLINATION ADJUSTMENT FITTING	:	UNDER 37 CFR 1.181
FOR THE BACKREST OF A VEHICLE SEAT	:	

This is a decision in response to applicant's petition treated as a "Petition under 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 14 August 2002. The petition requests that the above referenced application be converted from a application filed under 35 U.S.C. 111(a) to an application filed under 35 U.S.C. 371. The $130.00 petition fee has been paid.

BACKGROUND

On 21 February 2001, applicant filed international application PCT/EP01/01945, which claimed priority of an earlier application filed 03 May 2000 . A copy of the international application was communicated to the United States by the International Bureau on 08 November 2001.

No Demand was filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, or on 03 January 2002.

On 05 October 2001, applicant filed a transmittal letter for a patent application in the United States, which was accompanied by, *inter alia*,: $740 in filing fees, $40 for assignment fee and an executed declaration. The application was processed as a filing under 35 U.S.C. 111(a) and assigned application no. 09/971,493.

On 14 August 2002 applicant submitted the present petition along with a Transmittal Letter (Form PTO-1390) requesting processing of 09/971,493 as a national stage application under 35 U.S.C. 371. Applicant indicated that Form PTO-1390 was unintentionally omitted from the 05 October 2001 filing.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in 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.

A review of the application file reveals that applicant did not use Form PTO-1390 as a transmittal letter or clearly state in the transmittal letter that they were filing under 35 U.S.C. 371 or entering the national stage under PCT. The transmittal letter filed on 05 October 2002 did not identify the application as a national stage application being filed under 35 U.S.C. 371. The declaration filed by applicant was not directed to the specification PCT Application No. PCT/EP01/01945, which would have served as an indication that the applicant were seeking to enter the national stage under PCT.

Applicant's declaration filed 05 October 2001 was directed to the specification "attached hereto". Therefore, the declaration cannot be construed as a request to enter the national stage. Applicant's transmittal letter did not request treatment under 35 U.S.C. 371, therefore the application was properly treated as an application under 35 U.S.C. 111(a) (37 CFR 1.495(g)). The transmittal letter indicated that a filing fee of $740 was enclosed. This amount is the correct amount for filing fee. The transmittal letter further states the following: "The Commissioner is hereby authorized to charge payment of any additional filing fees...". *See* 37 CFR 1.125(b). Thus, applicant did not indicate that the papers initially submitted on the 05 October 2001 were

to be treated as a national stage application under 35 U.S.C. 371.

The basic national fee was $890. Applicant only paid $740. Applicant did not indicate that they wished to pay the basic national filing fee and did not pay the full national basic fee. Therefore, the international application became abandoned as to the United States for failure to pay the basic national fee by midnight on 03 January 2002 (35 U.S.C. 371(d) and 37 CFR 1.495(h)). Applicant paid the filing fee for a filing under 35 U.S.C. 111. Accordingly, applicant's request to convert to 35 U.S.C. 371 filing status cannot be granted because if the application was filed under 35 U.S.C. 371 the application would be abandoned for failure to pay the basic national fee prior to 04 January 2002, the expiration of twenty months from the priority date.

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. 09/971,493) and the international application (PCT/EP01/01945) designating the United States were copending on 03 January 2002. In order to obtain benefit of the earlier German 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/ EP01/01945, filed 21 February 2001, which designated the United States and is now abandoned."

Applicant submitted a certified copy of the German priority document to perfect the claim for priority under 35 U.S.C. 119. *See* MPEP §1896.

CONCLUSION

Applicant's submission on 05 October 2001 was properly treated as an application filed under 35 U.S.C. 111(a), with a filing date of 10/05/01. Applicant's petition is DISMISSED WITHOUT PREJUDICE.

This application is being forwarded to Office of Initial Preliminary Examination for further processing. The application will then be forwarded to Group 3600 for examination in due course.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Leonard E. Smith
Legal Examiner
PCT Legal Office

CMK/LES:cmk
Telephone: (703) 306-5467

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DIW 04-04

Paper No. 9

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MANCHESTER NH 03104

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Zbigniew Kocżewski	:	
Application No. 09/971,493	:	DECISION GRANTING
Filed: 5 October, 2001	:	PETITION
Atty Docket No. PCB103	:	

This is a decision on the petition filed on 25 August, 2003 (certificate of mailing date 25 February, 2003), which is treated as a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed international application.

The petition is **GRANTED**.

A petition for acceptance of a late claim for benefit under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(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) 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

[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 and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

> date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The present pending application was filed on 5 October, 2001, and was pending at the time of filing 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, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for benefit herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed international was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the present petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for benefit under 35 U.S.C. §§ 120 and 365(c), the petition to accept an unintentionally delayed claim to benefit to prior-filed international Application No. PCT/EP01/01945 is granted.

The benefit claim has been entered in Office records. A corrected Filing Receipt accompanies this decision.

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.

The application is being forwarded to Technology Center 3600 for examination in due course, and for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the above-noted, prior-filed international application.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Charles A. Pearson
Director, Office of Petitions

Encl: Corrected Filing Receipt

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAR 2 3 2002

#4

MARGER JOHNSON & McCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

In re Application of	:	
Herbert J. Semler	:	
Serial No. 09/971,507	:	DECISION ON PETITION
Filed: October 4, 2001	:	
Title: Disposable Vital Signs Monitor	:	

This is in response to applicants' petition faxed on October 3, 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

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IDEA ADVOCATES LAW GROUP LLC
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PORTLAND OR 97209

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Herbert Semler :
Application No. 09/971,507 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 8310-2 :
Title of Invention: Disposable Vital Signs Monitor :

This is a decision on the petition under 37 CFR §1.137(b), filed January 11, 2005 and supplemented on May 31, 2005 to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

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 was held abandoned for failure to timely reply to the Final Office Action mailed June 23, 2004. The Final Office Action set a three (3) month shortened statutory period for reply. A reply was not received. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application was held abandoned on September 24, 2004. A Notice of Abandonment was mailed on January 5, 2005.

Petitioner maintains that a response to the Final Office Action was mailed on December 20, 2004. Petitioner does acknowledge a typographical error on the amendment, extension of time, claim and amendment resulted in the incorrect application being placed on the response. The amendment and accompanying documents contained application number 10/336,536. The amendment did contain the correct filing date, docket number, art unit, name of the examiner, and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a stamped post card receipt, certificate of mailing, a copy of the amendment, illegible Express Mail Label, and to make the reply timely a

three month request for extension of time.

The amendment, claims, and three month request for extension of time have been located in application no. 10/336,536. 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 requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**. The petition fee will be refunded in the amount of $750.00.

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 the Continuation -in- Part Application No. 11/017,455 filed on December 20, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Petition Attorney

Office of Petitions

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AUG 17 2005

OFFICE OF PETITIONS

In re Patent No. 6,875,432 :	
Liu et al. :	
Issue Date : April 5, 2005 :	
Application No. 09/971,511 :	DECISION ON REQUEST
Filed: October 4, 2001 :	FOR RECONSIDERATION OF
Title: REDUCED-VISCOSITY :	PATENT TERM ADJUSTMENT
CONCENTRATED PROTEIN :	
FORMULATIONS :	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed April 18, 2005. Patentees request that the patent term adjustment (PTA) indicated in the patent be increased by 181 days for the Office's failure to issue the patent within three years of the application filing date.

The request is **DISMISSED**.

Patentees are given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under § 1.136.

On April 5, 2005, the above-identified application matured into U.S. Patent No. 6,875,432. The patent issued with a Patent Term Adjustment of 229 days. The instant request was timely filed within 2 months. Patentees contend that the patent is entitled to an additional period of adjustment of 181 days, pursuant to § 1.702(b), for failure of the Office to issue the patent within three years of the actual filing date of the application.

The instant patent did issue 3 years and 181 days after its filing date. However, if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the periods of delay totaling 273 days attributable to grounds specified in § 1.702(a)(1) overlap with the 181 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 273 days.

In view thereof, the patent issued with a correct patent term adjustment of 229 days (273 - 44).

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

Telephone inquiries specific to this matter should be directed to 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

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Paper No.

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

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In re Patent No. 6,875,432	:	DECISION ON REQUEST
Liu et al.	:	FOR
Issue Date: April 5, 2005	:	RECONSIDERATION OF
Application No. 09/971,511	:	PATENT TERM ADJUSTMENT
Filed: October 4, 2001	:	and
Atty Docket No. 146392005500	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 17, 2005, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred fifty-four (454) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred twelve (412) days is **GRANTED to the extent indicated herein.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given one (1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The over three year period is 183 days, not 181 days as calculated by patentee, counting the number of days beginning on October 5, 2004 and ending on April 5, 2005. Further, patentee's calculation acknowledges, but fails to account for the undisputed applicant delay of 44 days. Thus, the patent term adjustment is 412 days (273 + 183 - 44), not 454 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on April 18, 2005. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred twelve** (412) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,875,432 B2

DATED : **April 5, 2005** **DRAFT**

INVENTOR(S) : Liu et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 229 days

Delete the phrase "by 229 days" and insert – by 412 days--

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Washington, D.C. 20231

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APR - 8 2002

LICENSING & REVIEW

Ann W. Speckman
Speckman Law Group
Suite 100
1501 Western Avenue
Seattle, Wa. 98101

In re Application of:	:	DECISION ON
Glenn et al.	:	REQUEST FOR
Serial No. 09/971,536	:	CONSIDERATION
Filed: October 2, 2001		

For: **LACTOBACILLUS RHAMNOSUS POLYNUCLEOTIDES, POLYPEPTIDES AND METHODS FOR USING THEM.**

This is a decision on the REQUEST FOR RECONSIDERATION filed January 16, 2002 responding to the communication (FORM PTOL-456) mailed December 13, 2001.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part **"... useful in the production or utilization of special nuclear material or atomic energy".** A review of the application file history reveals among other things, the use of radioactive markers or radiolabel such as ^{32}P. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:

a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.

b. Industrial processes such as food processing, sterilization, polymer production, etc.

c. Investigations of the environment or the earth

H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed December 13, 2001.

Peter M. Poon
Supervisory Patent Examiner
Patent Technology Center 3600
(703) 308-2574

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: Noboru Yanagita	: DECISION ON REQUEST FOR
Patent Number	: 7613380	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/971,537	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1953** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No. 21

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APR 19 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Menz Wolfgang, et al. :
Application No. 09/971,580 :
Filed: October 10, 2001 :
Attorney Docket No. 785.40752X00 :

This is a decision on the petition, filed April 15, 2004, under 37 CFR(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 2, 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 forwarded to Technology Center AU 3731 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 indicted as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language on bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 22

Date : April 19, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Menz Wolfgang, et al.
Application No. : 09/971,580
Filed : October 10, 2001

The above-identified application has been assigned Patent No. 6,723,117 and an issue date of April 20, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of April 20, 2004:

> "All reference to Patent No. 6,723,117 to MENZ WOLFGANG, ET AL. of GERMANY for DEVICE FOR SUPPORTING A SURGICAL STEP IN A VESSEL, PARTICULARLY FOR REMOVAL AND IMPLANTATION OF HEART VALVES appearing in the Official Gazette of April 20, 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

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MAR - 9 2005

Paper No. 17

In re Application of :
Donald H. Felsenthal :
Application No. 09/971,625 : DECISION ON PETITION
Filed: October 9, 2001 :
For: Garment Bag Pocket Assembly

This is a decision on the petition filed on July 19, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated June 11, 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 in fact file a timely reply to the Office action in question. Petitioner supports this allegation by submitting a copy of the reply which took the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114, together with a submission in the form of a request to enter a previously filed amendment after final action, a request for a one month extension of time, checks for the RCE and extension fees, and a copy of a receipt for the filing of these items. The filing receipt shows that the papers and fees were in fact received in the Office on December 11, 2003, a date within the period for filing a reply to Office letter in question, as extended by three months. A request for a two month extension of time together with the fee therefor had previously been filed, and the filing of the RCE required that an additional one month extension of time together with a check for $110.00 for "a one month extension of time." The $110.00 fee was insufficient, because the proper fee for a third month's extension after previously paying the fee for a two month extension of time would have been $530.00, the difference between the $950.00 fee for a three month extension of time and the previously submitted $420.00 fee for a two month extension of time. However, the RCE included an authorization to charge any additional fees. Therefore, the RCE was in fact timely filed.

Based upon the filing of a timely RCE, it is clear that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. However, although Office financial records confirm receipt of the RCE filing fee and $110.00 check for an additional one month extension, the balance due for the required third month extension of time fee has not yet been charged. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the RCE that is attached to the petition. The date to which the RCE is entitled is December 11, 2003. A fee of $420.00 for the balance due on the third month extension of time will be charged to Deposit Account No. 18-2361. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Peter J. Georges
Breneman & Georges
3150 Commonwealth Avenue
Alexandria, VA 22305

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Paper No. 9

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Washington, DC 20043-9998

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DEC 09 2003

OFFICE OF PETITIONS

In re Application of :
Lansink Rotgerink et al. :
Application No. 09/971,668 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 39509-175629 :

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

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 27, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 28, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on November 20, 2003 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 revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. **10/670,222**.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to File Repository.

Latrice Bond

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-15-09 Paper No.: _____

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/971,742 Patent No.: 6905828

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

FOR IFW FILES: should request be Approved

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-15-09

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/971,742 Patent No.: 6905823

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

FOR IFW FILES: Should request be Approved

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

_____

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_____

_____

Gary Benzion

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/2/05 09/971746 Paper No.: _____

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6936731 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:

B. Dentz
BERNARD DENTZ July 19, 2006
PRIMARY EXAMINER

~~AU~~ 1625
acting SPE Art Unit

PTOL-306 (REV. 7/03)

Copied from 09971746 on 07/26/2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060906

DATE : September 6, 2006

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,936,731 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.

Virginia Tolbert
Thank You For Your Assistance **Certificates of Correction Branch**
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:

SPE: Thomas McKenzie **Art Unit** 1625

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. 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 : 6,936,731 B2

APPLICATION NO. : 09/971,746

ISSUE DATE : August 30, 2005

INVENTOR(S) : Vilmos Keri et al.

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

In the Abstract, line 6, replace "an solution" with --a solution--;

Column 2, line 15, replace "fermenation" with --fermentation--;

line 63, replace "*Steptomyces*" with --*Streptomyces*--;

Column 3, line 12, replace "pravaststin" with --pravastatin--;

Column 5, line 54, replace "advantages" with --advantageous--;

line 65, replace "transfered" with --transferred--;

Column 6, line 18, replace "DLAION" with --DIAION--;

Column 7, line 16, replace "1 and 3" with --1 and 3.--;

Column 8, line 14, replace "enteric-coating" with --enteric coating--.

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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NEW YORK 10004

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

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

T. O.

OCT 12 2005

PTO/SB/44 (04-05)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,936,731 B2

APPLICATION NO. : 09/971,746

ISSUE DATE : August 30, 2005

INVENTOR(S) : Vilmos Keri et al,

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

Column 12, line 25, claim 1, cancel the text "1. Pravastatin sodium having a purity of 99% to 99.9%.";

line 26, claim 2, replace "2." with –1.–;

line 28, claim 3, replace "3. The pravastatin sodium of claim 2" with –2. The pravastatin sodium of claim 1–;

lines 30-31, claim 4, replace "4. The pravastatin sodium of claim 2, further containing less than 0.1% epipravastatin sodium." with –3. The pravastatin sodium of claim 1 containing less than 0.1% epipravastatin.–;

line 32, claim 5, replace "5. The pravastatin sodium of claim 4" with –4. The pravastatin sodium of claim 3–;

lines 34-35, claim 6, replace "6. The pravastatin sodium of claim 1 containing less than 0.2% epipravastatin." with –5. The pravastatin sodium of claim 1 having a purity of 99% to 99.9%.–;

line 36, claim 7, replace "7. The pravastatin sodium of claim 6" with –6. The pravastatin sodium of claim 5–;

line 38, claim 8, replace "8. The pravastatin sodium of claim 6" with – 7. The pravastatin sodium of claim 5–; and

line 40, claim 9, replace "9. The pravastatin sodium of claim 8" with –8. The pravastatin sodium of claim 7–.

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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NEW YORK 10004

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

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

T.O.

OCT 12 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAIL

FEB 12 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Edwin Adair et al
Application No. 09/971,749
Filed: October 4, 2001
For: **REDUCED AREA IMAGING DEVICES UTILIZING SELECTED CHARGE INTEGRATION PERIODS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special filed on October 4, 2001 under MPEP 708.02 (IV), applicant's age.

A petition to make special under MPEP 708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by applicant stating that he/she is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED**.

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

The application will be forwarded to the examiner for action on the merits.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Edward W. Goebel, Jr.
Suite 700
100 State Street
Erie, PA 16507-1498

COPY MAILED

NOV 2 2 2004

OFFICE OF PETITIONS

In re Application :
Gorniak et al. :
Application No. 09/971,752 : DECISION ON APPLICATION
Filed: October 4, 2001 : FOR PATENT TERM ADJUSTMENT
Atty Docket No. 08695.0048 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER RULE 705," filed August 19, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to five hundred seventy-one (571) 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 five hundred seventy-two **(572)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 28, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On August 19, 2004, applicants timely[1] submitted an application for patent term adjustment (with required fee). The initial determination of PTA of 572 was reduced by 763 days for applicant delay. Applicants dispute the reduction of 763 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed November 8, 2001.

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

A review of the application history reveals that no response to the Notice to File Missing Parts of Application mailed November 8, 2001 was considered timely filed by the Office and the application became abandoned. Applicants were advised of the abandonment by notice mailed January 21, 2004. It appears that,

[1] PALM records indicate that the Issue Fee was also received in the Office on August 19, 2004.

in response, on February 27, 2004, applicants resubmitted the response. By Notice mailed March 11, 2004, the Office withdrew the Notice of Abandonment.

In view thereof, it is concluded that applicants did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Notice to File Missing Parts of Application. The Notice was mailed November 8, 2001, and the evidence established that applicants filed a timely response. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay should have been assessed as zero (0) days.

Moreover, within two month of the mailing of the notice of abandonment on January 21, 2004, applicants responded resubmitting the response. Applicants' response filed February 27, 2004 was constructively treated as a petition to withdraw the holding of abandonment (and granted).

It is further noted that the period of adjustment for Office delay pursuant to § 1.702(a)(1) and § 1.703(a)(1) is 572 days (not 571 days) counting the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), December 5, 2002, and ending on the date of mailing of a notice of allowance under 35 U.S.C. 151 on June 28, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred seventy-two (572) days.

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

The Office of Patent Publication has been advised of this decision. Thereby, the application is being forwarded 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.

Kerry 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

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

Paper No. 13

MAY 21 2003

Robert E. Bushnell
1522 "K" Street N.W., Suite 300
Washington, DC 20005

In re Application of MOO-YOUL KIM et al
Serial No. 09/971,763
Filing Date: October 10, 2001
For: INKJET PRINTHEAD

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 for withdrawal of the requirement to label figure 1 with a legend "Prior Art" made in the Office Action of April 11, 2003.

The petition is GRANTED.

A review of the record indicates that figure 1 as originally filed and discussed was not referred to as prior art. Hence, in keeping with the disclosure and petitioner's arguments, the Examiner's requirement to label this figure as "Prior Art" is incorrect and withdrawn.

The shortened statutory period to respond to the Office Action of April 11, 2003 continues to run.

In Summary, the petition is **GRANTED**.

Inquiries regarding this decision should be directed to Howard Goldberg, Director at (703) 306-3431.

Howard Goldberg, Director
Technology Center 2800
Physics, Optics, Electrical Components, and Engineering

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr.:08-02

Paper 7

WILLIAM J. SAPONE, ESQ.
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Quido, et al
Application No. 09/971,787
Filed: 4 October, 2001
Attorney Docket No. 11283/9-1471

DECISION ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 12 May, 2002

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

Thereafter there will be no further reconsideration.

Failure to respond within the time set forth above will result in abandonment of the application.

The Notice of Address Change hereby is acknowledged and accepted.

BACKGROUND

The record indicates:

- the application was filed on 4 October, 2001, without a fully executed oath or declaration;
- accordingly, a Notice to File Missing Parts of Application was mailed on 5 November, 2001, requiring an executed oath or declaration, and a surcharge for the late filing, all due

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

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

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

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

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

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

(absent extension of time) on or before 5 January, 2002;

- Counsel filed on 2 May, 2002, *inter alia*, the surcharge and a request and fee for a four-(4-) month extension of time, and the instant petition (with fee) to prosecute the application with/and the oath or declaration signed by less than all of the inventors on behalf of the non-signing inventor Vadim Brodsky (Mr. Brodsky);

- the petition recited that the non-signing inventor could not be contacted, but appears to recite an incorrect mail address for Mr. Brodsky--of which condition Counsel was made aware via telephone on 21 August, 2002 in order that he might evidence that Mr. Brodsky had been presented (or that attempts had been made to present them) with the complete application, yet he refused to sign or cannot be found or reached after diligent effort.

ANALYSIS

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

A copy of the entire application must be sent to the last known address of the non-signing inventor with a request that he/she sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[2]

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

---

[2] See: MPEP 409.03(b).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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JJGJr.:01-03

Paper 10

WILLIAM J. SAPONE, ESQ.
COLEMAN SUDOL SAPONE P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605

COPY MAILED

JAN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
Quido, et al : DECISION ON PETITION
Application No. 09/971,787 :
Filed: 4 October, 2001 :
Attorney Docket No. 11283/9-1471 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 12 May, 2002

Petitioner has shown that, while inventors Francis Quido, David Spar, James Kim, Jitendre Patel Anatoliy Aminov have signed the oath/declaration, the non-signing inventor **Vadim Brodsky** has refused to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by William Sapone (Reg. No. 32,518) establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

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

---

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

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

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

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

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

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

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

DAVID AKER
23 SOUTHERN ROAD
HARTSDALE, NY 10530

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Brodie et al.
Application No. 09/971,793
Filed: October 5, 2001
Attorney Docket No. YOR920010537US1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 18, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed November 6, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 7, 2002. 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).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID AKER
23 SOUTHERN ROAD
HARTSDALE NY 10530

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of :
Carolyn A. Brodie, et al. :
Application No. 09/971,793 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. YOR920010537US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 3, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 4, 2007. The Notice of Abandonment was mailed January 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3688 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.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date : 6/28/2007
Patent No. : 6,733,994 B2
Inventor(s) : Weiner et al.
Issue Date : May 11, 2004
Title : **HIGHLY EXPRESSIBLE GENES**
Doc./File No. : UPN-4106 (M 2324)

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error in column 24, line 47, comparison of the printed patent with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing, your request in this matter is hereby denied.

A certificate of correction will be issued to correct the remaining erros noted in your request.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 ext.#122
Cecelia B. Newman, *Supervisor* (703) 308-9390 ext. #101
Decisions & Certificates of Correction Branch

COZEN O'CONNOR
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THE ATRIUM
PHILADELPHIA PA 19103-3508

ecw

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

Ivor R. Elrifi
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111

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NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Warne et al. :
Application No. 09/971,813 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 22058-531CON (GI-5371) :

This is a decision on the petition filed December 6, 2001, to accord the above-identified application a filing date of October 5, 2001. The Office apologizes for the significant delay in rendering a decision on the petition.

On October 5, 2001, the application was filed.

On November 8, 2001, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

In view of the above, the petition is **granted**.

The Notice mailed November 8, 2001, is hereby vacated.

A petition fee has not been charged for the instant petition.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 5, 2001, using the application papers filed on October 5, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 7

FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN, MI 48126

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MAR 12 2004

OFFICE OF PETITIONS

In re Application of
Hegerath, Andreas
Application No. 09/971,815
Filed: October 5, 2001
Attorney Docket No. 199-1962

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 27, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 9, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2002. A Notice of Abandonment was mailed on November 13, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

Petitioner's deposit account will be charged $1330.00 and $130.00 for the petition fee and the late declaration surcharge as authorized.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DEC 12 2003

Paper No. 14

In re Application of
Richard A. Brandt
Application No. 09/971,830
Filed: October 4, 2001
Attorney Docket No. 0200528-0006

: DECISION ON PETITION

This is a decision on the petition filed on September 29, 2003 and resubmitted by facsimile transmission on Nov 3, 2003 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file an appeal brief. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that the application is not abandoned because the appeal brief was timely filed, albeit with an incorrect application number affixed thereto. Petitioner supports this allegation by furnishing a copy of the appeal brief as filed, and by noting that as filed, the appeal brief had a "certificate of Express Mail" affixed thereto which is dated April 21, 2003. In addition, petitioner has furnished a copy of an Express Mail Label showing that the item mailed was deposited with the United States Postal Service on April 21, 2003. In accordance with 37 CFR 1.10, the copy of the Express Mail Label, together with the Express Mail Number that is affixed to the copy of the appeal brief, is sufficient evidence to establish the filing of the appeal brief on April 21, 2003. As the transmittal letter accompanying the appeal brief included an authorization to the appeal fee and to charge "any additional fee(s) during the pendency of this application", it is clear that the appeal brief was timely filed (in view of the 37 CFR 1.136(a) constructive petition for a two month extension of time resulting from the authorization to charge "any additional fees"), and the application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to charge Deposit Account 50-1628 in the amount of $160.00 for the appeal brief fee and in the amount of $205.00 for a two month extension of time. Thereafter, the application will be forwarded to the Supervisory Patent Examiner of Art Unit 3711 who will direct the examiner to take special action on the appeal brief filed on April 21, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Salans Hertzfeld Heilbronn Christy & Viener
620 Fifth Avenue
New York, NY 10020

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IVAN S. KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of :
Haiqing Wei, et al. :
Application No. 09/971,831 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 0980/66019 :

This is a decision on the petition, filed May 9, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 24, 2004, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on April 20, 2005. In response, on May 9, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The file is being referred to Technology Center Art Unit 2633 for consideration of the amendment filed May 9, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Intellectual Property Administration
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Fort Collins CO 80527-2400

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Julie A. Symons et al :
Application No. 09/971,857 : DECISION ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. HP-10013861 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **DISMISSED** as moot for the reasons stated below.

The petition states that this application became abandoned on April 12, 2007.

A review of the file record discloses that a final Office action was mailed on October 17, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 17, 2007 or on or before April 17, 2007 with the appropriate extension of time fee. A Notice of Appeal, bearing a certificate of mailing date of January 17, 2007, was received on January 22, 2007. Accordingly, the Appeal Brief was due on or before March 22, 2007, or on or before August 22, 2007 with the appropriate extension of time fee. On June 14, 2007, an Appeal Brief was filed within the extendable period provided therefor.

As there is no apparent indication that this application is in fact abandoned, the filing of a petition to revive is unnecessary and is therefore dismissed as involving a moot issue. However, if petitioner knows of any reason why a petition to revive in this application is necessary, petitioner should promptly inform the Office.

In view of the above, the $1,500 petition fee submitted is unnecessary and refunded to petitioner's deposit account. As authorized, the $500 fee due for the Appeal Brief and a three (3) month extension of time fee of $1,020 will be charged to petitioner's deposit account.

This application is being referred to Technology Center AU 2151 for appropriate action in the normal course of business on the Appeal Brief filed June 14, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 4

Michael L. Diaz
Michael L. Diaz, P.C.
Suite 200
555 Republic Drive
Plano TX 75074

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JUL 0 1 2002

Technology Center 2100

In re Application of: Kenneth W. Michael)
Application No. 09/971,865)
Filed: October 5, 2001)
For: SYSTEM AND METHOD FOR PROVIDING PERSONAL INFORMATION ABOUT CRIMINAL OFFENDERS TO A PLURALITY OF LAW ENFORCEMENT AGENCIES)

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102 AND M.P.E.P. §708.02(XI)

This is a decision on the petition to make special filed May 8, 2002. In light of the content of the petition, it will be treated under 37 C.F.R. §102(d) in view of M.P.E.P. §708.02(XI): Inventions For Countering Terrorism.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 1.102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is generally directed to a system for transferring data between different entities in a standardized format. Transferring data between entities does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State" or activities "that would be a criminal violation if committed

within the jurisdiction of the United States or of any State". Furthermore, transferring data between entities does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

Although it can be said that a centralized database in a system for transferring data between entities would limit acts of terrorism, the system disclosed does not teach directly preventing potential terrorist acts by identifying terrorists. The disclosed invention indicates that the centralized database is available for use by multiple entities and can be populated with data by receiving said data from multiple sources in a standardized format. The disclosed invention does not indicate how the data received in the centralized database would prevent potential terrorist acts. The invention disclosed enables multiple entities to share data but does not appear to provide the capabilities to identify an individual as a terrorist or one who will perform a terrorist act. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that Applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

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Paper No. 10

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1251 AVENUE OF THE AMERICAS
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JAN 16 2004

OFFICE OF PETITIONS

In re Application of	:
Burdick, et al.	:
Application No. 09/971,868	: DECISION NOTING JOINDER
Filed: October 4, 2001	: OF INVENTOR AND PETITION
Atty. Dkt. No. INN-1	: UNDER 37 CFR 1.47(a) MOOT
For: SYSTEMS AND METHODS FOR	:
DOCUMENT SEARCHING AND	:
ORGANIZING	:

This decision is in response to the "SUPPLEMENTAL REPLY TO NOTICE TO FILE MISSING PARTS," filed July 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 is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

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OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Burdick, et al. :
Application No. 09/971,868 :
Filed: October 4, 2001 :
Atty. Dkt. No.: INN-1 :

This decision is in response to the petition filed under 37 CFR 1.181.

The petition under 37 CFR 1.181 is hereby **GRANTED**.

This application was held abandoned October 29, 2002 for failure to timely file a response to the decision on petition mailed August 28, 2002. The decision on petition set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely obtained. Notice of Abandonment was mailed June 9, 2003.

In the absence of any irregularity in the mailing of the decision on petition, there is a strong presumption that the decision on petition properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the decision on petition was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the decision on petition was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the decision on petition on the part of the United States Patent and Trademark Office.

In support of the petition, however, petitioner has provided a copy of the docket record where the decision on petition would have been entered if received along with a statement from practitioner that a search of the docket record and file jacket indicated that the decision on petition was not received.

In view of the above, the Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

No fee is due in connection with this petition.

The application file is being forwarded to the Office of Petitions support staff for re-mailing of the decision on petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, DC 20231

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APR - 4 2000
Office of Director
Technology Center 1600

RJH
Paper No. 9

In re Application of:
SUKUMAR, SARASWATI VAIDYANATHAN
Serial No.: 09/240,206
Filed: January 29, 1999
For: Destruction of the Epithelium of an Exocrine Gland in the Prophylactic and Therapeutic Treatment of Cancer

DECISION ON PETITION

jc821 U.S. PTO
09/971901
10/05/01

This is a decision on the petition under 37 CFR 1.102 and MPEP 708.02, filed January 29, 1999 (copy faxed on February 29, 2000), to render the application special for examination purposes because the invention relates to the prevention and treatment of cancer (MPEP 708.02 (X)).

The petition has been reviewed and it is found to be in compliance with the requirements for special status as set forth in 37 CFR 1.102(d) and in Section 708.02(X) of the Manual of Patent Examining Procedure.

Subject alone to diligent prosecution by the applicants, this application will continue to be treated special throughout the entire prosecution in the Patent and Trademark Office.

The petition is GRANTED.

John Doll, Director
Technology Center 1600

CAROL LARCHER
LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA SUITE 4900
180 NORTH STETSON
CHICAGO, IL 60601-6780

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OFFICE OF PETITIONS

In re Application of :
Sasaki :
Application No. 09/971,918 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 110726 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on September 28, 2004, which set a three (3) month statutory period for reply. Accordingly, this application became abandoned on December 29, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.5

Oliffe & Berridge
PO Box 19928
Alexandria, VA 22320

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AUG 1 6 2002

OFFICE OF PETITIONS

In re Application of :
Pascal Pedrinelli et al. :
Application No. 09/971,919 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 110807 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts Notice mailed November 7, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2002.

The application is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,592,516	2003-07-15	09971938	2001-10-09	3092-244

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-08-23
Name	Bruce H. Troxell	Registration Number	26592

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6592516
Issue Date: July 15,2003
Application No. 09971938
Filed: October 9,2001
Attorney Docket No. BHT-3092-244

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 23,2008 . 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 15

KLARQUIST SPARKMAN, LLP
ONE WORLD TRADE CENTER
SUITE 1600
121 S.W. SALMON STREET
PORTLAND OR 97204

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SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of
Casey Prindiville et al
Application No. 09/971,952
Filed: October 4, 2001
Attorney Docket No. 6047-61248

ON PETITION

This is a decision on the petition, filed by facsimile transmission on September 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 September 8, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES 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 C. STEWART
REALNETWORKS, INC.
2601 ELLIOTT AVENUE, SUITE 1000
SEATTLE WA 98121

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SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Glaser et al. :
Application No. 09/971,954 : DECISION ON PETITION
Filed: October 4, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 109905-136622 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. Petitioner has claimed priority to application no. 09/538,525, which does not have at least one common inventor named in the prior filed applications.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

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). 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 between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional, petitioner must notify the Office.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax:
(571) 273-8300
ATTN: Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Steven Munson
Berkeley Law and Technology Group, LLC
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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STEVEN C. STEWART
REALNETWORKS, INC.
2601 ELLIOTT AVENUE, SUITE 1000
SEATTLE WA 98121

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MAR 30 2007

OFFICE OF PETITIONS

In re Application of
Glaser et al.
Application No. 09/971,954
Filed: October 4, 2001
Attorney Docket No. 109905-136622

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed applications, 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

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.

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.

This application is being forwarded to Technology Center Art Unit 2154 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sharon Wills Brantley for
Frances Hicks
Petitions Examiner
Office of Petitions

cc: Steven Munson
Berkeley Law and Technology Group, LLC
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/971,954	10/04/2001	2154	1174	109905-136622	21	3

CONFIRMATION NO. 5632

CORRECTED FILING RECEIPT

OC000000023148433

60380
STEVEN C. STEWART
REALNETWORKS, INC.
2601 ELLIOTT AVENUE, SUITE 1000
SEATTLE, WA 98121

Date Mailed: 03/28/2007

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)

Robert D. Glaser, Seattle, WA;
Mark O'Brien, Cambridge, MA;
Thomas B. Boutell, Seattle, WA;
Randy Glen Goldberg, Princeton, NJ;

Power of Attorney: The patent practitioners associated with Customer Number **60380**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/568,525 05/09/2000
which is a CON of 09/237,099 01/25/1999 PAT 6,985,932
which is a CON of 09/042,172 03/13/1998 PAT 6,151,634
which is a CON of 08/347,582 11/30/1994 PAT 5,793,980

Foreign Applications

If Required, Foreign Filing License Granted: 10/23/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/971,954

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Audio-on-demand communication system

Preliminary Class

709

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

FEB 25 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

#8

KIRTON AND MCCONKIE
1800 EAGLE GAGE TOWER
60 EAST SOUTH TEMPLE
P.O. BOX 45120
SALT LAKE CITY, UT 84145-0120

In re Application of :
David T. Muskovitz : DECISION ON PETITION
Serial No.: 09/971,961 :
Filed: October 4, 2001 :
For: Protective Helmet and Integrated Vent System :

This is in response to the petition applicant filed on January 15, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Box Design, 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

#3
3/13/02
Shw

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
09/971,968	10/3/2001	Stephen Schwartz	1538/23

CONFIRMATION NO.
4551

SHAWN W. O'DOWD
KENYON & KENYON
1025 CONNECTICUT AVE., N.W.
SUITE 600
WASHINGTON, DC 20036

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on January 31, 2002 for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. **X** The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

The application **will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, PGPub Division, 703-308-2355.

Jon Lachel
Office of Patent Publication,
PGPub Division

MAIL

Date Mailed: MAR 13 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Rev. 10/01

#7
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JUN 17 2003

Shawn Hunter
Madan, Mossman & Sriram, P.C.
2603 Augusta
Suite 700
Houston, TX 77057

MAILED

JUN 17 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
James W. Martin
Application No.09/971,969 : DECISION ON REQUEST
Filed: October 8, 2001 : FOR WITHDRAWAL OF
For: SELF-LOCKING FIREARM BOLT ACTION : ATTORNEY

This is a decision on the request filed on March 26, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) above.

As to condition A), the request to withdraw as attorneys those of record from the firm of Baker, Botts, LLP for the application, filed March 26, 2003 is dismissed as moot because the attorney who signed the request is not of record. The only Power of Attorney in the application, which was also filed on March 26, 2003, named attorneys from the firm of Madan, Mossman & Sriram, PC, and was accepted in a Notice of Acceptance mailed May 6, 2003.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/dxn: 6/10/03

Cc: Howard L. Speight
One Shell Plaza
910 Louisiana Street
Houston, Texas 77002-4995

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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Baker & McKenzie
Patent Department
2001 Ross Avenue
Suite 2300
Dallas, TX 75201

MAIL

SEP 1 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Richard LAWN, et al.
Application No. 09/971,976
Filed: October 4, 2001
For: SYSTEM, AND METHOD FOR ONLINE COLOR ALGORITHM

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed August 26, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Al Auyeung
Schwab, Williamson & Wyatt P.C.
Pacwest Center
1211 SW Fifth Avenue
Portland, OR 97204

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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FEB 07 2008

OFFICE OF PETITIONS

In re Application of :
Stephen William Edge, et. al. :
Application No. 09/971,990 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 2001P14495US :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 26, 2006, to revive the above-identified application. The delay in responding is regretted.

The above application became abandoned for failure to file a proper reply to the final Office action mailed January 4, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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 and Request for Continued Examination (RCE) under 37 CFR 1.114 with the $790 filing fee; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Office acknowledges receipt of $1,020 for the three months extension of time filed on December 26, 2006. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 2614, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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BELL BOYD & LLOYD LLP
P.O. BOX 1135
CHICAGO, IL 60690

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of
Danny W. Bilyeu et al
Application No. 09/971,993
Filed: October 5, 2001
Attorney Docket No. 4944US (01-03-105)

ON PETITION

This is a decision on the petition, filed December 6, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 26, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

James P. Hao
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

MAILED

DEC 0 6 2004

Technology Center 2100

In re Application of:
Purcel
Application No. 09/972,007
Filed: October 5, 2001
For: METHOD AND SYSTEM FOR ACCELERATING ETHERNET CHECKSUMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation Under 37 CFR 1.36 and 10.40(c) filed September 15, 2004.

A Power of Attorney Under 37 CFR 1.36 was filed on October 22, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed OBLON, SPIVAK, MCCLELLAND, MAIRE & NEUSTADT, P.C., as the attorneys of record of the instant application. The Power Of Attorney of October 22, 2004, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

cc: OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.11

DAVID G. HENRY
900 WASHINGTON AVENUE
WACO, TX 76701

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Dennis Apana et al :
Application No. 09/972,020 : DECISION ON PETITION
Filed: October 5, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HOT FLOW-CIP :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 17, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/832,303, filed April 10, 2001.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on October 5, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is reminded that, since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper. **See 37 CFR 1.4(c).**

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 2854 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/832,303, filed April 10, 2001[2].

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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[2]It is noted that petitioner has deleted the reference to prior Application No. 09/649, 642, in the first sentence of the specification.

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Montano et al. :
Application No. 09/972,032 : DECISION ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 27708-04003 :

This is a decision on the petition filed on January 25, 2006, to withdraw the holding of abandonment.

The application became abandoned for failure to reply timely to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply"), mailed on April 21, 2005, which set a one-month extendable period for reply. In the absence of a timely filed response, the application became abandoned on May 22, 2005. A Notice of Abandonment was mailed on January 4, 2006.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Notice to Comply of April 21, 2005, remail the Notice and restart the period to reply. The practitioner asserted that a search of the file jacket and docket records indicated that the Notice was not received. In support of the assertion, the practitioner submitted a copy of the docket record for May 19 –24, 2005, where the non-received Notice would have been entered had it been received and docketed.

A review of the record indicates no irregularity in the mailing of the Notice to Comply, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to Comply was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where

the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[2] For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. The Notice to Comply set a one-month extendable period for reply. Therefore, the practitioner must submit a copy of the docket report showing all replies docketed for one month from the mail date of the Notice to Comply (*i.e.*, from April 21, 2005, up to and including, May 21, 2005) as documentary proof of non-receipt of the Office action. With the present petition, the practitioner only submitted docket records for the period from May 19-24, 2005.

The petition to withdraw the holding of abandonment is **dismissed**.

Copies of the Notice to Comply, a CRF Problem Report, and the Notice of Abandonment accompany this decision for petitioner's convenience.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

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

[2] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice to Comply, a CRF Problem Report, and the Notice of Abandonment

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.
09/972,032	10/05/2001	Monica Montano	27708/04003	2885

24024 7590 04/21/2005

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

EXAMINER	
YU, MISOOK	

ART UNIT	PAPER NUMBER
1642	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/972,032			

EXAMINER	
Misook Yu	
ART UNIT	**PAPER**
1642	20050419

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR §§ 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.
APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR §§ 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR §1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Bio
(<<http://www.uspto.gov/ebc/efs/downloads/documents.htm>>, EFS Submission User Manual - ePAVE)

2. Mailed to:
Mail Stop Sequence
Commissioner for Patents
P.O. Box 22313-1450
Alexandria, VA 22313-1450

3. Mailed by Federal Express, United Parcel Service or other delivery service to:
U. S. Patent and Trademark Office
Box Sequence, Room 1B03-Mailroom
Crystal Plaza Two
220 20th Street S.
Arlington, Virginia 22202

4. Hand Carried directly to the Customer Window at:
U. S. Patent and Trademark Office
Box Sequence, Customer Window, Lobby, Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, Virginia 22202

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Misook Yu whose telephone number is (571) 272-0839. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be emailed to cynthia.wilder@uspto.gov. Since email communications may

not be secure, it is suggested that information in such request be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on (571) 272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Any questions regarding compliance with the sequence rules requirements specifically should be directed to the departments listed at the bottom of the Notice To Comply.

Any inquiry of a general nature or relating to the status of this application, or requests to supply missing elements from Office communications, should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Misook Yu 4/19/2005

Application No. 09/972,032

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. 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).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [X] 7. Other: SEQ ID NO: 3, and 4 are missing from the Sequence listing

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
For PatentIn software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

STIC Biotechnology Systems Branch

1FW16

CRF Problem Report

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) experienced a problem when processing the following computer readable form (CRF):

Application Serial Number: 09/992,032A
Filing Date: 10/5/01
Date Processed by STIC: 12/20/05

STIC Contact: **Mark Spencer: Telephone: 571-272-2510; Fax: 571-273-0221**

Nature of CRF Problem:

___ (circle one) Damaged or Unreadable (for Unreadable, see attached)
_✓_ Blank (no files on CRF) (see attached)
___ Empty file (filename present, but no bytes in file) (see attached)
___ Wrong file saved to CRF (invention title, docket number, or applicant(s) do not match those in official application) (see attached)
___ Not saved in ASCII text
___ Sequence Listing was embedded in the file. According to Sequence Rules, submitted file should **only** be the Sequence Listing.
___ Did not contain a Sequence Listing. (see attached sample)
___ Other:

PLEASE USE THE CHECKER VERSION 4.3.1 PROGRAM TO REDUCE ERRORS. SEE BELOW FOR ADDRESS:
http:/www.uspto.gov/web/offices/pac/checker/chkrnote.htm

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm> , **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service**: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. **Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):** U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Revised 08/30/05

09/972,032A

12/20/2005

```
A:\>DIR

 Volume in drive A has no label
 Directory of A:\

File not found

                1,457,664 bytes free

A:\>
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Onscreen message when STIC PC tried to read submitted disk

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,032	10/05/2001	Monica Montano	27708/04003	2885

24024 7590 01/04/2006

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

EXAMINER	
YU, MISOOK	

ART UNIT	PAPER NUMBER
1642	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	09/972,032	MONTANO ET AL.	
	Examiner	Art Unit	
	MISOOK YU, Ph.D.	1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *21 April 2005*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

Ms. Wendy Frick was notified on 12/27/05 that notice of abandonment would be mailed to applicant.

Misook Yu 12/27/05

MISOOK YU, Ph.D.
Primary Examiner
Art Unit: 1642

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
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CLEVELAND OH 44114

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OFFICE OF PETITIONS

In re Application of
Montano et al.
Application No. 09/972,032
Filed: October 5, 2001
Attorney Docket No. 27708-04003

DECISION ON PETITION

This is a decision on the renewed petition filed on March 6, 2006, to withdraw the holding of abandonment.

The application became abandoned for failure to reply timely to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply"), mailed on April 21, 2005, which set a one-month extendable period for reply. In the absence of a timely filed response, the application became abandoned on May 22, 2005. A Notice of Abandonment was mailed on January 4, 2006.

Again, applicant requested that the Office withdraw the holding of abandonment due to non-receipt of the Notice to Comply of April 21, 2005, remail the Notice and restart the period to reply.

A review of the record indicates no irregularity in the mailing of the Notice to Comply, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice to Comply was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

[1] MPEP § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The Notice to Comply set a one-month extendable period for reply. The practitioner asserted that a search of the file jacket and docket records indicated that the Notice was not received. The practitioner submitted a copy of the docket records showing all replies docketed for one month from the mail date of the Notice to Comply (from April 21, 2005, up to and including, May 22, 2005) as documentary proof of non-receipt of the Notice.

As applicant made the required showing, the petition to withdraw the holding of abandonment is **granted**. In view of the evidence presented in support of the contention that the practitioner did not receive the original Notice, **Technology Center Art Unit 1642 shall re-mail the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures of April 21, 2005, and restart the period for response.**

The $130.00 petition fee is unnecessary and will be refunded to the Deposit Account.

This matter is being referred to Technology Center Art Unit 1642 for further action in accordance with this decision.

Telephone inquiries related to this decision 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

KEVIN G. ROONEY
WOOD, HERRON & EVANS, L.L.P.
2700 CAREW TOWER
CINCINNATI OH 45202

COPY MAILED

APR 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Colin Pedigrew :
Application No. 09/972,089 :
Filed: October 5, 2001 :
Attorney Docket No.NOR-1027 :

DECISION GRANTING PETITION

This is a decision on the petition filed January 17, 2002, (certificate of mailing dated November 5, 2001), requesting that one page of drawing, labeled "Figure 1" be accorded a filing date of October 5, 2001, as part of the original disclosure.

The above-identified application was filed on October 5, 2001. On November 8, 2001, the Office of Initial Patent Examination mailed a "Notice of Omitted Items of a Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of October 5, 2001, however, "Figure 1" of the drawings submitted appeared to have been omitted. The Notice allowed a non-extendable two month period for reply beginning from the mailing date of the Notice.

In response, on January 17, 2002 (certificate of mailing dated November 27, 2001), applicants filed the present petition, a copy of "Figure 1", the "Utility Patent Application Transmittal" that accompanied the application as originally filed, and a copy of postcard receipt date-stamped by the Office showing, among other items, that 6 pages of drawings were received on October 5, 2001.

Upon review of the record, "Figure 1" has not been located among the application papers. However, the evidence is convincing that the application papers deposited October 5, 2001, included "Figure 1" , which was subsequently misplaced by the Office. Therefore, the application, including "Figure 1" was complete on filing and entitled to the presently accorded filing date of October 5, 2001.

Accordingly, the petition is granted.

Applicant is advised that the Notice was sent in error and is vacated. Therefore, no petition fee is necessary and the fee of $130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 5, 2001, using "Figure 1" filed on October 5, 2001.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 4/15/02 | 2 Serial/Patent # 09/972,089

	3 Please refund th following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	3	1/17/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $130.00

8 TO BE REFUNDED BY:

✓ Treasury Check

Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Office ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Tonya McLaughlin TITLE: Petitions Atty.

SIGNATURE: Tonya A. McLaughlin PHONE: 305-0070

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Glenda Kelly DATE: 4-19-02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 5/16/05

caf
Paper Number _____

In re application of	:	
Russell D. Birkholz	:	DECISION ON
Serial No. 09/972,124	:	PETITION
Filed: October 5, 2001	:	
For: WATER CONTACT INDICATOR	:	

This is a response to the PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR § 1.181 filed by facsimile transmission on March 14, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed February 3, 2005, be withdrawn since the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004.

DECISION

Since the petitioner asserts that the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

As set forth in MPEP § 711.03(c) - PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION:

> "The showing required to establish the 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 the practitioner's statement." (emphasis added)

The evidence presented by the petitioner fails to comply with the requirements set forth in MPEP § 711.03(c). The evidence presented is insufficient to establish that the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004 was not received at the correspondence address. The evidence provided includes a statement by the petitioner that the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004 was not received. Also provided is a copy of the application docket records where the NOTICE OF ALLOWANCE AND FEE(S) DUE would have been posted had it been timely received. The instant petition does not contain a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c).

Therefore, the status of this application remains ABANDONED.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Mailed: 7/15/05

Paper Number _____

In re application of:	Russell D. Birkholz	:	DECISION ON
Serial No.	09/972,124	:	PETITION
Filed:	October 5, 2001	:	
For:	WATER CONTACT INDICATOR	:	

This is a response to the PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT ON FAILURE TO RECEIVE OFFICE ACTION UNDER 37 CFR § 1.181 filed by facsimile transmission on March 14, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed February 3, 2005, be withdrawn since the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004.

DECISION

Since the petitioner asserts that the applicant did not receive the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

The evidence presented by the petitioner complies with the requirements set forth in MPEP § 711.03(c). The evidence presented is sufficient to establish that the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004 was not received at the correspondence address. The evidence provided includes a statement by the petitioner that the NOTICE OF ALLOWANCE AND FEE(S) DUE mailed September 28, 2004 was not received. Also provided is a copy of the application docket records where the NOTICE OF ALLOWANCE AND FEE(S) DUE would have been posted had it been timely received. The instant petition also contains a statement attesting that a search of the file jacket was made, and the results of such a search revealed that the office communication was not received as is required by MPEP § 711.03(c).

Therefore any holding of abandonment for failure to timely file a proper response to the Office letter mailed on September 28, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the technical support staff for mailing of a new Notice of Allowance and Fees Due.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

3M Innovative Properties Company
P.O. Box 33427
St. Paul, MN 55133-3427

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JUL 2 3

OFFICE OF PETITIONS

The petition is **granted**.

Dennis Woods

COPY MAILED

JUL

OFFICE OF PETITIONS

Derek S Woods

[illegible]

[illegible]

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JUL 25 2002

OFFICE OF PETITIONS

[illegible]

[illegible]

Dear Dr. [illegible]:

[illegible]

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Alexandria, VA 22313-1450
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JOSEPH R. RULISON
150 PELHAM ROAD
ROCHESTER NY 14610

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph R. Rulison	:	
Application No. 09/972,145	:	DECISION ON PETITION
Filed: October 5, 2001	:	UNDER 37 CFR 1.78(a)(6)
For: CASH MANAGEMENT	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 27, 2007, 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) 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)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date 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. §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 application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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 3691 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Karen Creasy
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
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/972,145	10/05/2001	3691	940		5	1

CONFIRMATION NO. 6720

Joseph R. Rulison
150 Pelham Road
Rochester, NY 14610

CORRECTED FILING RECEIPT

Date Mailed: 02/07/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph R. Rulison, Rochester, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/238,114 10/06/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/15/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/972,145**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cash Management

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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FORT COLLINS CO 80527-2400

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Wee, et al. :
Application No. 09/972,229 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. HP-10016300 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 15, 2006.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed March 9, 2006. This Office action set an extendable period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on October 6, 2006.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the docket record submitted on petition is only a summary of the prosecution history for the instant application. As set forth above, to establish that the March 9, 2006 Office action was not received, petitioner would need to submit his docket records showing all of his replies docketed for the due date of June 9, 2006.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Wee, et al. :
Application No. 09/972,229 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. HP-10016300 :

This is a decision on the rnewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 14, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed March 9, 2006. This Office action set an extendable period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on October 6, 2006. Applicants filed a petition to withdraw the holding of abandonment on November 15, 2006. However, the petition was dismissed in a decision mailed on January 16, 2007.

With the instant renewed petition, petitioner has submitted a satisfactory docket record, showing all replied docketed for the date of June 9, 2006. An entry for the instant application is absent, supporting the conclusion that the March 9, 2006 Office action was not received.

The matter is being forwarded to Group Art Unit 2136 for re-mailing of the March 9, 2006 non-final Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,231	10/04/2001	Gerald Dorros	AMS-011B	4391

35023 7590 09/23/2004

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

EXAMINER	
DEAK, LESLIE R	
ART UNIT	**PAPER NUMBER**
3762	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

CN

LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

In re Application of:	:	DECISION ON
Gerald Dorros et al.	:	PETITION TO CORRECT
Serial No.: 09/972,231	:	INVENTORSHIP
Filed: October 4, 2001	:	
	:	

This is in response to applicant's petition under 37 CFR 1.48 to add Mark C. Bates as an inventor of the subject matter now claimed in the above-identified application.

As the requirements for this petition have been met, the petition is **GRANTED**.

Angela D. Sykes
Supervisory Patent Examiner
Art Unit 3762

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FOLEY & LARDNER
3000 K STREET, N.W., SUITE 500
WASHINGTON DC 20007-5109

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Joseph Roberts et al :
Application No. 09/972,245 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 078728-0104 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/239,268, filed October 12, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Petitioner has submitted on June 1, 2004, an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/239,268, filed October 12, 2000.

The instant pending nonprovisional application was filed on October 9, 2001, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/239,268 in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $130 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Additionally, a reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment as drafted is unacceptable. 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. Therefore, applicant must file a substitute amendment deleting the incorporation by reference statement for the prior-filed provisional application.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1755 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of prior-filed provisional Application No. 60/239,268, filed on October 12, 2000.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER
3000 K STREET, N.W., SUITE 500
WASHINGTON DC 20007-5109

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AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Joseph Roberts et al :
Application No. 09/972,245 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 078728-0104 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed June 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C.§ 119(e) for the benefit of prior-filed provisional Application No. 60/239,268, filed October 12, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

Petitioner has submitted on June 1, 2004, an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/239,268, filed October 12, 2000.

The instant pending nonprovisional application was filed on October 9, 2001, and was pending at the time of filing of the instant petition. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter filed with the above-identified application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the

application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of provisional Application No. 60/239,268 in the declaration filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $130 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Additionally, a reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment as drafted is unacceptable. 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. Therefore, applicant must file a substitute amendment deleting the incorporation by reference statement for the prior-filed provisional application.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1755 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6) for the benefit of prior-filed provisional Application No. 60/239,268, filed on October 12, 2000.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

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Paper No. 10

TROY J. KAISER
63 SYCAMORE LANE
HANOVER, PA 17331

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Leslie Horvath :
Application No. 09/972,250 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 31, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This file is being forwarded to Technology Center AU 3749 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Robert A. Kallio
106 – 15 Innovation Boulevard
Saskatoon, SK Canada S7N 2X8

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Alexandria, VA 22313-1450
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TROY J. KAISER
63 SYCAMORE LANE
HANOVER, PA 17331

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Leslie A. Horvath :
Application No. 09/972,250 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. :

This is a decision on the petition filed December 6, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 19, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 20, 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 and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert A. Kallio
207 – 116 Research Drive
Soskaloon, SK Canada S7N 3R3

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 6

HERBERT B. KEIL
KEIL & WEINKAUF
1101 CONNECTICUT AVE., N.W.
WASHINGTON, DC 20036

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JUL 12 2002

OFFICE OF PETITIONS

In re Application of :
Christian Lach et al :
Application No. 09/972,253 : NOTICE
Filed: October 9, 2001 :
Attorney Docket No. 51801 :

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 1714.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/972,279	1/8/02	JEFFERSON YS YANG	3444

Title: **ENHANCED HEAT CONDUCTIVE DEVICE FOR SUPPLY DEVICE OF HYDROGEN SOURCE, AND SUPPLY DEVICE OF HYDROGEN SOURCE HAVING SAME**

Art Unit	Paper Number

Correspondence Address:

BRIAN P. KLEIN
SENNIGER, POWERS, LEAVITT & ROEDEL
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MISSOURI 63102

PATENT & TRADEMARK OFFICE
MAILED
MAY 15 2002

LICENSING & REVIEW

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 528,884
Grant Date: 14-May-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such aplication or applications.

This license is granted under 37 CFR 5.15(a)

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminstration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

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WASHINGTON, D.C. 20231
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In re:	Yang	:DECISION ON REQUEST
Serial No.:	09/972,279	:UNDER 37 CFR 5.25
Application Filing Date:	October 5, 2001	
Petition Filing Date:	January 8, 2001	

Title: ENHANCED HEAT CONDUCTIVE DEVICE FOR SUPPLY DEVICE OF HYDROGEN SOURCE, AND SUPPLY DEVICE OF HYDROGEN SOURCE HAVING SAME

This is a decision on the petition received January 8, 2001 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Application No.	Date
Taiwan, R.O.C.	090119939	August 14, 2001
People's Republic of China, P.R.C.	01124275.2	August 23, 2001

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

INTERNATIONAL BUSINESS MACHINES CORPORATION
650 Harry Road, L2PA/J2C
INTELLECTUAL PROPERTY LAW
SAN JOSE CA 95120-6099

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of :
Gary Thomas Axberg et al. :
Application No. 09/972,310 : DECISION ON PETITION UNDER
Filing Date: October 5, 2001 : 37 C.F.R. §1.10(c)
Attorney Docket No. SJ09-2001- :
0108 :
Title: STORAGE AREA NETWORK :
METHODS AND APPARATUS WITH :
EVENT NOTIFICATION CONFLICT :
RESOLUTION :

This is a decision on the petition under 37 C.F.R. §1.10(c), filed September 26, 2005, requesting the according of a filing date of October 5, 2001 to application number 09/972,310.

The Office regrets the delay in issuing this decision.

The application was deposited on October 5, 2001. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 09/972,310 had been accorded a filing date of October 4, 2001.

With the present petition, Petitioner has included a copy of the Express Mail label number EL835825606US[1].

Petitioner has alleged that the application was deposited on October 5, 2001, and the Patent Office has incorrectly assigned a filing date of October 4, 2001 to the present application.

1 The Provisional Application for Patent cover sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of October 5, 2001.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was equally inconclusive.

Although the application received a filing date of October 4, 2001, the evidence is convincing that the application papers were filed on October 5, 2001, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 5, 2001.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 5, 2001, as well as the mailing of a corrected filing receipt.

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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CERUS CORPORATION
C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of :
Derek J. Hei :
Application No. 09/972,323 : DECISION ON PETITION
Filed: October 5, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 282172000402 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 29, 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 embodied in 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 October 5, 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 the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment filed April 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications set forth in the amendment embodied in the instant petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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NOV 29 2007

FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036

In re Application of :
Kiyoshi Higashi et al :
Serial No.: 09/972,331 : PETITION DECISION
Filed: October 9, 2001 :
Attorney Docket No.: 7372/72170 :

This is in response to the petition under 37 CFR 1.181, filed October 30, 2007, requesting withdrawal of the Finality of the Office action mailed July 25, 2007.

BACKGROUND

A summary of the file history shows that following a restriction requirement, a non-Final Office action and subsequently a Final Office action were mailed to applicants resulting in the filing of RCE papers on September 12, 2005. Thereafter a new non-Final Office action was mailed to applicants on November 15, 2005, to which response was made on May 15, 2006.

Another non-Final Office action was mailed to applicants on November 16, 2006, noting that claim 1 remained withdrawn, and rejecting remaining claims 7-11 and 33 under 35 U.S.C. 102(a) as anticipated by Norman et al. Claims 7-11 and 33 were also rejected under 35 U.S.C. 102(b) as anticipated by Dhalla et al, Chen et al and Kashanchi et al. Claims 7-11 and 33 were further rejected under 35 U.S.C. 112, first paragraph, as lacking written description in the specification. Claims 8-11 were rejected under 35 U.S.C. 112, second paragraph, as indefinite.

Applicants' response was filed on May 16, 2007. The reply consisted of amendments to claims 7 and 33 and addition of claims 34-37 and responses to the examiner's rejections of record.

The examiner mailed a Final Office action to applicants on July 25, 2007. The examiner maintained the rejection of claims 7-11 and 33 under 35 U.S.C. 102(a) as anticipated by Norman et al. Claims 7-11 and 33 were also rejected under 35 U.S.C. 102(b) as anticipated by Chen et al and Kashanchi et al. Claims 7-11 and 33 were further rejected under 35 U.S.C. 112, first paragraph, as lacking written description in the specification. The examiner responded to applicants' arguments as to these rejections and withdrew the other rejections of record. For unknown reasons the examiner failed to include claims 34-37 in the Office action.

Applicants filed this petition on October 30, 2007, objecting to the finality of the Office action as premature on the basis that claims 34-37 were not addressed therein. Applicants also filed a new

set of RCE papers including a request for a three month suspension of action under 37 CFR 1.103(c), but no actual reply to the Office action.

DISCUSSION

Applicants request withdrawal of the finality of the Office action of July 25, 2007, on the basis that the examiner failed to address newly added claims 34-37 and the action is therefore, incomplete. Applicants include with the petition copies of two Board of Patent Appeals and Interferences decisions without comment and which appear to have no relevance to the question of whether the finality is proper or not.

Applicants' assertion is correct. Claims 34-37 were not addressed by the examiner in the Office action mailed July 25, 2007. A review of claims 34-37 shows that they are all dependent claims depending on claim 7 or claim 8. Claim 7 is a method claim for inhibiting collagen accumulation in which four alternative amino acid sequences or variants form the crux of the method. Claims 34-36 which depend from claim 7 limit the amino acid sequence to one of the four identified in claim 7. Claim 37 which depends from claim 8 which in turn depends from claim 7 also limits the method to one amino acid sequence. Since the Final rejection is incomplete in that it dopes not address all of the claims it is hereby vacated.

DECISION

The petition is **GRANTED.**

The application will be returned to the examiner for preparation of a new and complete Office action which may be a Final Office action.

In view of the vacating of the Final Office action mailed July 25, 2007, the RCE papers filed October 30, 2007, are improper and refund of the fees associated will be made to Deposit Account 06-1135, as directed.

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.

Christopher Low
Acting Director, Technology Center 1600

#11
5/12/03

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MAY 12 2003

TECHNOLOGY CENTER 2100

Paper No. 11

Arden & Hadden, LLP
1100 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

In re Application of:
Ulrich Bungert, et al.
Application No.: 09/972,365
Filed: October 5, 2001
For: AUTOMATIC GENERATION OF DIAGNOSTIC PROGRAMS FOR SPS-CONTROLLED SYSTEMS

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 April 14, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on April 4, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Baker & Botts LLP as the attorneys of record of the instant application. The Power Of Attorney of April 4, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Baker & Botts, LLP.

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Riedel et al. :
Application No.: 09/972385 :
Filing or 371(c) Date: 10/05/2001 :
Attorney Docket Number: :
10014506-1 : ON PETITION

This is a decision on the correspondence filed March 16, 2007, asserting that the final office action was never received, and requesting re-mailing thereof. The correspondence is properly treated as a Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 3, 2006. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on May 4, 2006. A Notice of Abandonment was mailed December 12, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action 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 Technology Center Art Unit 2137 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

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P.O. Box 272400
Fort Collins CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Riedel et al.	:	
Application No.: 09/972385	:	
Filing or 371(c) Date: 10/05/2001	:	
Attorney Docket Number:	:	
10014506-1	:	ON PETITION

This is a decision on the correspondence filed March 16, 2007, asserting that the final office action was never received, and requesting re-mailing thereof. The correspondence is properly treated as a Petition to Withdraw Holding of Abandonment under 37 C.F.R. 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 3, 2006. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on May 4, 2006. A Notice of Abandonment was mailed December 12, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action 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 Technology Center Art Unit 2137 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

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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MARK B WILSON
FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

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JUL 05 2005

OFFICE OF PETITIONS

In re Application	:	
Massey, et al.	:	
Application No. 09/972,396	:	DECISION ON APPLICATION
Filed: October 5, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. ESSR:053US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.705(b)," filed April 29, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred six (306) days to three hundred twenty-nine (329) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred twenty-nine (329) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 13, 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 three hundred six (306) days. On April 29, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is three hundred twenty-nine (329) days.

Applicants assert entitlement to a patent term adjustment of three hundred twenty-nine (329) days on the basis that the PTO improperly assessed Applicants a delay of thirty-five (35) days for responding to a Notice to File Missing Parts mailed on November 8, 2001. Applicants assert that they filed a response on February 20, 2002, and as such should only have been assessed delay of twelve (12) days.

Applicants do not state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred six (306) days based on an adjustment for PTO delay of three hundred thirty-six (336) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and five (5) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delay of thirty-five (35) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of thirty-five (35) days is at issue.

The adjustment of thirty-five (35) days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on November 8, 2001. Applicants filed a complete response to this notice on February 20, 2002. As this was not timely pursuant to 37 C.F.R. § 1.704(b), applicant delay of twelve (12) days should have been assessed, not thirty-five (35) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred twenty-nine (329) days** (341 days of PTO delay and 12 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 50-1212, as authorized.

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[1] Applicants filed the application for patent term adjustment prior to the payment of the issue fee.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery 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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Paper No. 11

MAIL

MAY 2 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Laura A. Majerus
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of:)
Chris E. Matichuk)
Application No. 09/972,424) **DECISION ON REQUEST FOR**
Filed: October 4, 2001) **WITHDRAWAL AS ATTORNEY**
For: ONE CLICK WEB RECORDS)

This is a decision on the Request To Withdraw from Representation filed May 12, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 12, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bradley J. Hulbert
MCDONNELL, BOEHNEN, HULBERT &
BERGHOFF
300 South Wacker Drive
Chicago, IL 60606-6709

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APR 19 2004

BURNS, DOANE, SWECKER & MATHIS LLP
P. O. BOX 1404
ALEXANDRIA, VA 22313-1404

In re Application of	:
Kenneth C. Cundy et al	:
Serial No.: 09/972,425	: PETITION DECISION
Filed: October 5, 2001	:
Attorney Docket No.: 033053-025	:

This is in response to the petition under 37 CFR 1.144, filed December 29, 2003, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on October 5, 2001, and contained claims 1-20. In a first Office action, mailed January 15, 2003, the examiner required an election of species to be made by applicants, and set forth some representative examples of species without limiting applicants to choosing therefrom.

Applicants replied on March 17, 2003, electing the species identified by compound 230 and identified claims 1-10 and 19-20 as reading thereon.

The examiner mailed a new Office action to applicants on May 2, 2003, acknowledging applicants election of compound 230 and then defined a subgenus of the generic compound of formula 1 by defining variables X, R^1, R^2, Z, M, Q^b and D'. Claims 5-10 and 19 were then examined and claims 1-4, 11-18 and 20 withdrawn from consideration as being drawn to a non-elected invention. Claims 5 and 19 were then rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 6-10 were objected to as containing non-elected inventions.

Applicants replied on August 4, 2003, amending claims 1, 4-10 and 19. Claims 2 and 11-17 were canceled. Replies to the rejection were made and the election of species requirement again traversed with respect to the subgeneric concept developed by the examiner.

The examiner mailed a Final Office action to applicants on September 29, 2003, responding to the traversal by stating that the claims were directed to several patentably distinct inventions and made the requirement Final. Claims 5-10 were again objected to as containing non-elected inventions and their cancellation required. The Office action was made Final.

Applicants replied on December 29, 2003, by filing this petition requesting that the requirement be withdrawn. Applicants argue that only an election of species within the genus has been required by the examiner and that the examiner has then defined applicants' inventive concept based on the elected species and has restricted examination thereto improperly based on the guidelines of M.P.E.P. 803.02. Further the examiner has not made a restriction between the compound and method claims, but has acted as if there had been and thus not examined the method claims.

DISCUSSION

Restriction practice under 35 U.S.C. 121 can be divided into two distinct parts. In the first an examiner may define independent and distinct inventions (e.g. - a composition and a method of using) claimed by an applicant and require applicant to choose between them for prosecution purposes. In the second an examiner in order to determine a proper starting point for examination of related, but distinct, inventions (those encompassed by a generic description) may require an election of species. In some instances, the two procedures may be cumulative wherein a election between distinct inventions (e.g. – a compound and a method of using the compound) is made and then an election of species required within the elected group because of the plethora of species claimed within a genus. Specific guidelines are set forth for each type of requirement as well as guidelines for an examiner's action following election from either type of requirement.

In this instance, although the examiner alleges in the last Office action that there are a number of patentably distinct inventions claimed, no formal restriction requirement has been made between them. The examiner has required only an election of species within the compounds set forth in the claims. As such the examiner is required to follow the guidelines set forth in M.P.E.P. 803.02. To some extent the examiner has done that by examining the elected species and determining that it is free of the prior art and has then expanded the search and examination of the species to a number of related species, also finding them free of the prior art. Where the examiner has erred is in then deciding that all applicants are entitled to is the species or subgeneric concept developed from the species by the examiner which has actually been examined. This is not in accord with In re Weber and other cases cited in M.P.E.P. 803.02. M.P.E.P. 803.02 requires the examiner after finding the elected species to be patentable to conduct an examination of a representative number of related species and then, if the examined species are also found to be free of the prior art to allow the entire genus. This the examiner has not done.

The examiner has indicated that method claim 1, if limited to the same scope as the compound claims, would also be considered allowable, but has as yet declined to allow such claims since claim 5 remains objected to. However, no formal restriction between the method and compound claims has been made and both types of claims must therefor be examined.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for further consideration not inconsistent with this decision.

As a consequence of this decision the last Office action is withdrawn and the examiner directed to issue a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers for

Bruce M. Kisliuk
Director, Technology Center 1600

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CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON, FL 33487

Mail Date: 04/21/2010

Applicant	: Imaddin Othman Albazz	: DECISION ON REQUEST FOR
Patent Number	: 7620570	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/972,434	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/05/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1373** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

GREGORY GARMONG
P.O. BOX 310
SMITH, NV 89430

In re Application of :
Thao Hoang :
Application No. 09/972,449 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 11707 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 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 on March 3, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to Technology Center AU 3747 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CORNING, NY 14831

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OFFICE OF PETITIONS

In re Application of :
Fang Lai et al :
Application No. 09/972,469 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. SP01-290 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 4, 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 as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

This application became abandoned for failure to file a response to the Office action of May 3, 2004, within the period set for response. The proposed response required for consideration of a petition to revive must be an amendment or the filing of a continuing application.

Since petitioner has failed to submit the reply required by 37 CFR 1.137(b)(1), the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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CORNING, NY 14831

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OFFICE OF PETITIONS

In re Application of :
Fang Lai et al :
Application No. 09/972,469 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. SP01-290 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1631.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: NIXON PEABODY
SUITE 900
401 9TH STREET, N.W.
WASHINGTON, DC 20004-2128

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HAMILTON BROOK SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD, P.O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of :
Sean A. McCarthy :
Application No. 09/972,473 : DECISION ON PETITION
Filed: October 4, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 18552067-003 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional and PCT 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 October 4, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional and PCT 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 and PCT 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 and PCT 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 and PCT 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 Wan Laymon at (703) 306-5685.

This application is being referred to Technology Center Art Unit 1647 for appropriate action on the amendment filed February 27, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional and PCT applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No. 6753259
Issue Date: June 22,2004
Application No. 09972492
Filed: October 5,2001
Attorney Docket No. LEE-004AX

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 25,2010 ,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 March 25,2010 . 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)
6753259	2004-06-22	09972492	2001-10-05	LEE-004AX

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-03-25
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482

In re Application of	)	
Ping Xie	)	DECISION ON REQUEST TO
Application No. 09/972,517	)	WITHDRAW FROM RECORD
Filed: October 5, 2001	)	
Docket No. 509232000200	)	

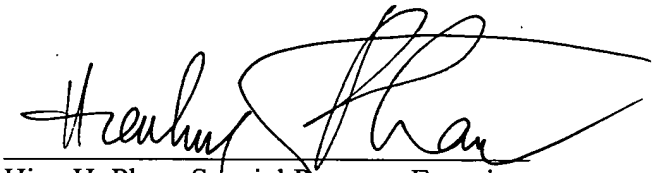
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 13, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen C. Durant on the behalf of all attorneys of record.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.



Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Optical and Electrical
Systems and Components

cc: New Focus, Inc.
5215 Hellyer Avenue
San Jose, California 95138-1001

UNITED STATES 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

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego CA 92192-8289

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
RAJARAM :
Application No. 09/972,519 : DECISION ON PETITION
Filed: October 5, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. UTL 00144 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 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 **DISMISSED**. Any renewed petition must be filed within TWO MONTHS of this mailing. See 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) or (b) are not permitted.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application No 09/917,026. 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). In this regard, the applications that can be considered to have been herein incorporated by reference on filing were **only:** 09/927,131 filed August 10, 2001; 09/916,900 filed July 21, 2001, and 09/9169,460(sic, 09/916,460) filed July 26, 2001. Thus, while the addition of applicaiton No. 09/917,026 to the priority claim is acceptable *per se*, its inclusion among the applications now incorporated by reference is not acceptable. Likewise, the inclusion of 09/969,305 filed October 2, 1001; and 09/970,188 filed October 3, 2001 among the applications incorporated by reference (but not relied upon for priority) is unacceptable for the same reason.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement(s) which include 09/09/917,026; 09/969,305; and 09/970,188, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is involved

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) has been charged to petitioner's Deposit Account.

---

[1] *Note* 37 CFR 1.121

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

Kyocera Wireless Corp.
Attn: Patent Department
PO Box 928289
San Diego CA 92192-8289

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SEP 2 2 2004

OFFICE OF PETITIONS

In re Application of
RAJARAM
Application No. 09/972,519
Filed: October 5, 2001
Attorney Docket No. UTL 00144

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 19, 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 October 5, 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).

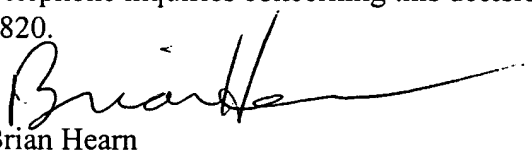
The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional 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 along with an acceptance of power.

This application is being forwarded to Technology Center Art Unit 2686 for appropriate action on the amendment filed August 19, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-1820.



Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt and Acceptance of Power

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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OFFICE OF THE DIRECTOR
TC 3600

John V. Daniluck
Woodard, Emhardt, Naughton, Moriarty & McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Paper No. 8

In re application of : **DECISION ON PETITION**
Earl Dallas Smith : **TO MAKE SPECIAL**
Application No. 09/972,536 : **(APPLICANT'S AGE)**
Filed: October 8, 2001 :
For: LOW PROFILE CHASSIS AND SUSPENSION

This is a decision on the petition submitted on October 21, 2002, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age. The delay in treating this petition is sincerely regretted.

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 signed statement from the applicant stating 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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

rar/tpl: 2/26/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

David S. Thompson
South 7 Howard, #418
Spokane, WA 99201

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MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Luk Baskerville
Application No. 09/972,561
Filed: October 9, 2001
Attorney Docket No. n/a

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Missing Parts of Application mailed November 1, 2001, which set a shortened statutory period for reply of (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on January 2, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: David S. Thompson
4116 E. 20th Avenue
Spokane, WA 99223

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Christopher G. Trainor
Carter, Deluca, Farrell, & Schmidt, LLP
445 Broad Hollow Road - Suite 225
Melville, New York 11747

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MAR 23 2004

OFFICE OF PETITIONS

In re Application of
David C. RACENET
Application No. 09/972,594
Filed: October 5, 2001
Attorney Docket No. 2671 CIP (203-2856 CIP)

DECISION
ON PETITION
37 CFR 137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item (1) the required reply.

Attached to this communication, please find attached the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATIONS, that was mailed to the Applicant on October 30, 2001. The filing of the missing parts as required by said Notice is absolutely necessary in order to consider a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

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[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).

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Ehud Gartenberg at (703) 305-4066 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

encl. NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATIONS, confirmation number 5162, mailed 10/30/2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Chief Patent Counsel
United States Surgical
Division of Tyco Healthcare Group, LP
150 Glover Avenue
Norwalk, CT 06856

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JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
David C. RACENET	:	
Application No. 09/972,594	:	DECISION GRANTING PETITION
Filed: October 5, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 203-2856CIP	:	

This is a decision on the renewed petition, filed May 26, 2004, to revive the instant application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The instant application became abandoned for failure to file a response to the Notice to File Missing Parts of Non-Provisional Application - Filing Date Granted, mailed October 30, 2001.

A petition pursuant to 37 CFR 1.137(b) was filed on February 23, 2004. A decision dismissing petition was mailed on March 23, 2004.

Petitioner has now met the requirements for filing a grantable petition under 37 CFR 1.137(b).

It is noted that the Notice lists Figure 9B as being absent upon filing; however, Figure 9B may be found on the originally-filed drawing sheet containing Figures 5-9A.

It is noted that the correspondence address in the instant application differs from that in the instant petition. If petitioner desires to receive future correspondence regarding this application, a new power of attorney and/or change of address should be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). A courtesy copy of the instant decision is being mailed to petitioner.

The late oath surcharge required by 37 CFR 1.53(f)(2) has been charged to deposit account no. 21-0550.

The instant application is being returned to the Office of Initial Patent Examination for further processing.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Christopher G. Trainor
CARTER DELUCA FARRELL & SCHMIDT, LLP
445 Broad Hollow Road, Suite 225
Melville, NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TRAN & ASSOCIATES
6768 MEADOW VISTA CT.
SAN JOSE CA 95135

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APR 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Tsai :
Application No. 09/972,596 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. TSAI 001 :
For: SYSTEMS AND METHODS FOR SECURING COMPUTERS

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed January 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 April 27, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioner has submitted an amendment in reply to the January 26, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the January 26, 2005 non-final Office action, and the required petition fee.[1]

The petition is **GRANTED**.

The application file is being forwarded to Technology Center AU 2157 for consideration of the amendment filed on January 28, 2006.

---

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior 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)
6499147	2002-12-31	09972604	2001-10-08	2107-4

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	/Andrew W. Chu/	Date (YYYY-MM-DD)	2008-03-23
Name	Andrew W. Chu	Registration Number	46625

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. 6499147
Issue Date: December 31,2002
Application No. 09972604
Filed: October 8,2001
Attorney Docket No. 12469.0002.CNUS01

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070308

DATE : March 8, 2007

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction on Patent No.: 09/972608

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:

The request submitted 10/24/2005 for correction of the inventor's name is approved

SPE: Jennifer McNeil **Art Unit** 1775
3187

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AUG - 5 2003

Paper No. 6

In re Application of :
Robert H. Cheyne, III : DECISION ON PETITION
Application No. 09/972,623 :
Filed: October 6, 2001 :
Attorney Docket No. 101AC-021B

This is a decision on the petition to make this application special for advanced examination out of turn that was filed on July 23, 2003. The $130.00 petition fee has been paid.

The petition is dismissed.

Petitioner has requested special status on the grounds of actual infringement of the claimed invention. A review of the petition shows that petitioner has not satisfied all of the requirements for a petition to make special on the grounds alleged as those requirements appear in MPEP § 708.02(II). Specifically, for the reasons that follow, it does not appear that petitioner has made "a rigid comparison of the alleged infringing device with the claims of this application", so as to be able to base on opinion thereon stating that the claims are "unquestionably" infringed.

Petitioner relies upon a telephone call placed to a business entity. That business entity is a supplier of a product sold under a registered trademark, which product is an "antimicrobial treatment that protects the binding agent" used in a certain product. Someone at the supplier told petitioner that the antimicrobial agent is supplied to the supplier's customer for use in scouring pad applications, and that in the opinion of this person, there is but one method by which the antimicrobial agent could be applied to the scouring pad. This person expressed a conclusory opinion that this method was necessarily the method that had to be followed by the supplier's customer.

Independent claim 1 of this application requires "a cured polymeric coating" on a substrate, which polymeric coating includes an antimicrobial agent when the coating is cured on the substrate. Sole independent method claim 10 requires, *inter alia*, the step of "providing a liquid, film-formable binder" to coat the surface of a substrate, coating the substrate with the liquid, and then curing the binder and repeating the coating and curing as desired.

It is clear that it is any conclusion that these claims are infringed by the activities of the supplier is speculative, at best. For example, it is far from clear that the antimicrobial agent supplied is incorporated in a polymeric coating, let alone that the coating is repeatedly applied with multiple curing steps. In short, petitioner's comparison of the claims with the alleged infringing device is not a rigid comparison, but is a speculative comparison based upon second hand information which in fact does not specifically address limitations present in the two independent claims of record. Accordingly, there is presently no basis upon which to grant special status.

Petitioner may file a renewed petition directed to this matter, provided that the renewed petition is filed within two months of the date of this decision, as required by 37 CFR 1.181(f). No fee is required for the renewed petition. The application is being returned to storage in the

Technology Center 3700 Central Files awaiting first action on the merits.

PETITION DISMISSED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Bradley N. Ruben
463 First St
Suite 5A
Hoboken, NJ 07030

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BRADLEY N. REBEN
463 FIRST ST
SUITE 5A
HOBOKEN, NJ 07030

COPY MAILED

JUL 14 2005

OFFICE OF PETITIONS

In re Application of :
Robert H. Cheyne :
Application No. 09/972,623 : ON PETITION
Filed: October 6, 2001 :
Attorney Docket No. 0499-021B :

This is a decision in response to the petition, filed March 28, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed April 23, 2004. A Notice of Abandonment was mailed on December 13, 2004. In response, on March 28, 2005, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to Technology Center AU 3723 for consideration of the amendment filed March 28, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 16

GEORGE O. SAILE & ASSOCIATES
28 DAVID AVENUE
POUGHKEEPSIE, NY 12603

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NOV 0 5 2004

OFFICE OF PETITIONS

ON PETITION

NOV 0 8 2004

In re Application of
Lin, Mou-Shiung
Patent No. 6,657,310
Application No. 09/972,639
Filed: October 9, 2001
Issued: December 2, 2003
Attorney Docket No. MSLIN98-002CCB

This is a decision on the petition filed September 16, 2004, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

In the instant case, an assignment was never recorded and in fact, no assignee exists. Petitioner states that the inclusion of assignee data on form PTOL-85b was an inadvertent error.

A review of the record indicates that relief is warranted.

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 Paralegal Liana Chase at (571) 272-3282.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Mailed: JUL 22 2004

DWW

In re application of
William Ho et al.
Serial No. 09/972,661
Filed: October 5, 2001
For: BIODEGRADABLE STARCH RESIN
AND METHOD OFR MAKING SAME

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed July 29, 2003, for failure to receive office action of the Final Rejection, dated December 12, 2002. The petitioner asserts that the Office letter, mailed December 12, 2002, was not received at the applicant's correspondence address. No actual Notice of Abandonment has yet been issued.

DECISION

Since petitioner asserts that the papers were never received, 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 evidence presented is sufficient to establish that the Office letter, mailed December 12, 2002, was not received at the applicant's correspondence address. The evidence provided includes a statement by the petitioner that the Office letter, mailed December 12, 2002 was not received, a statement that the search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided is a copy of Declaration of Wendy Tokmakidis, Supervisor of Records & Docketing at the attorney's New York Office and a copy of the attorney's application docket records where the Office letter would have been posted had it been timely received at the correspondence address (Exhibit 1 and Exhibit 5).

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of Office letter and restarting of the statutory period of response from the remail date thereof.

The petition is **GRANTED**.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

George A. Senich
Jones Day
222 East 41st Street
New York, NY 10017

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Mailed: AUG - 2 2004

DWW

In re application of
William Ho et al.
Serial No. 09/972,661
Filed: October 5, 2001
For: BIODEGRADABLE STARCH RESIN
AND METHOD OFR MAKING SAME

DECISION ON
PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed July 29, 2003, for failure to receive office action of the Final Rejection, dated December 12, 2002. The petitioner asserts that the Office letter, mailed December 12, 2002, was not received at the applicant's correspondence address. No actual Notice of Abandonment has yet been issued.

DECISION

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Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of Office letter and restarting of the statutory period of response from the remail date thereof.

The petition is **GRANTED**.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

George A. Senich
Jones Day
222 East 41st Street
New York, NY 10017

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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

In re Application of Ho et al.	:	
Application No. 09/972,661	:	Decision on Application
Filing Date: October 5, 2001	:	For Patent Term Adjustment
Attorney Docket No. 10880-003-999	:	

This is a decision in response to the "Application for Extension of Patent Term Pursuant to 37 C.F.R. § 1.705," filed January 4, 2006. Applicants request correction of the patent term adjustment from zero (0) days to six hundred forty-six (646) days.

The application for patent term adjustment is **granted to the extent indicated below**.

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 zero (0) days, including 98 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 5, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 0 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment. Applicants request that the patent term adjustment be corrected to 646 days.

The instant request asserts the Office's delay pursuant to 37 CFR 1.703(a)(2) should be calculated as 738 days, not 0 days.

Per 37 CFR 1.703(a)(2), the Office was allowed 4 months of time to either mail an action under 35 U.S.C. 132 or a notice of allowance in response to applicant's reply filed August 16, 2002. The Office mailed a final Office action on December 16, 2002. A petition to withdraw the holding of abandonment was filed July 29, 2003. The petition established non-receipt of the final Office action. However, the fact petitioner failed to receive the Office action does not alter the fact that the Office mailed an action under 35 U.S.C. 132 within 4 months of the paper filed under 35 U.S.C. 111 on August 16, 2002.

Since the December 12, 2002 final Office action was mailed within 4 months of applicant's reply filed August 16, 2002, an adjustment under 37 CFR 1.703(a)(2) is unwarranted.

[1] PALM Records indicate that the Issue Fee payment was received on January 4, 2006.

37 CFR 1.704(b) provides for a reduction when a petitioner takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. The Office mailed a final Office action on December 16, 2002. A petition to withdraw the holding of abandonment was filed July 29, 2003. The petition established non-receipt of the final Office action. The Office action was remailed on December 23, 2004. A reply to the Office action was filed on June 23, 2005. The 3 month time period to respond pursuant to 37 CFR 1.704(b) began on December 23, 2004, the date the Office action was remailed and not on the date the original Office action was mailed. Therefore, a reduction of 92 days, and not 834 days, is proper pursuant to 37 CFR 1.704(b).

Per 37 CFR 1.704(c)(8), the period of adjustment will be reduced when a supplemental reply or other paper is filed after a reply has been filed. The period of adjustment will start from the date after the submission of the first reply and will end on the date that the supplemental reply or other paper is filed. This category does not apply to papers expressly requested by the examiner. Petitioner filed a RCE on June 23, 2005. Petitioner filed an IDS on June 29, 2005. The record fails to indicate the examiner expressly requested the IDS. Therefore, a reduction of 6 days is proper pursuant to 37 CFR 1.704(c)(8).[2]

An adjustment of patent term is proper under 37 CFR 1.703(b) which provides for patent term adjustment when an application is issued as a patent more than three years after the application's filing date. The period of adjustment under 37 CFR 1.703(b) will not include the number of days from the date the request for continued examination was filed until the patent is issued.[3] In other words, the RCE cuts off any additional PTA due to failure to issue a patent within three years of the actual filing date, but does not otherwise affect the PTA calculation. The period of adjustment under 37 CFR 1.703(b)(1) will be the time period starting from October 6, 2004, the day after the three-year time period, and ending on June 23, 2005, the day the RCE was filed. However, the period of adjustment pursuant to 37 CFR 1.703(b) is calculated at the time of issuance of the patent.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.703(b).

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[2] An IDS in compliance with 37 CFR 1.97 or 1.98 will not be used to reduce the time period for these categories if it is accompanied by a certification that each item of information contained in the IDS was cited in a communication from a foreign patent Office in a counterpart application and that the communication was not received by any individual under 37 CFR 1.56(c) more than thirty days prior to the filing of the IDS. See 37 CFR 1.704(d). The IDS filed June 29, 2005, was not accompanied by the certification discussed in 37 CFR 1.704(d).

[3] *Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000), 1239 Off. Gaz. Pat. Office (October 3, 2000):

> 35 U.S.C. 154(b)(1)(B) provides that an applicant may receive a term adjustment if the application is not issued within three years of the filing date of the application, excluding (among other things) any time consumed by continued examination requested under 35 U.S.C. 132(b). Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.

Telephone inquiries concerning this decision should be directed to Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

Day : Thursday
Date: 5/11/2006

PALM INTRANET

Time: 18:20:03

PTA Calculations for Application: 09/972661			
Application Filing Date:	10/05/2001	PTO Delay (PTO):	0
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	834
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	736		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
42	05/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		6	
41	05/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		92	
40	05/11/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	834		
30	10/05/2005	MAIL NOTICE OF ALLOWANCE			
29	09/30/2005	ISSUE REVISION COMPLETED			
28	09/30/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
27	09/29/2005	NOTICE OF ALLOWABILITY			
26	08/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	07/22/2005	DATE FORWARDED TO EXAMINER			
24	06/23/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
23	07/22/2005	DATE FORWARDED TO EXAMINER			
22	06/23/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		834	14
21	07/22/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
20	06/23/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	06/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/06/2005	CASE DOCKETED TO EXAMINER IN GAU			
17	06/23/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
16	12/23/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
15	12/21/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
14	12/12/2002	MAIL FINAL REJECTION (PTOL - 326)			

13	11/04/2002	FINAL REJECTION			
12	08/21/2002	DATE FORWARDED TO EXAMINER			
11	08/16/2002	RESPONSE AFTER NON-FINAL ACTION			
10	05/20/2002	MAIL NON-FINAL REJECTION			
9	04/08/2002	NON-FINAL REJECTION			
8	02/28/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	02/25/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
6	10/26/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	11/07/2001	APPLICATION DISPATCHED FROM OIPE			
3	11/07/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/05/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 8

MORRIS MANNING & MARTIN LLP
1600 ATLANTA FINANCIAL CENTER
3343 PEACHTREE ROAD, NE
ATLANTA, GA 30326-1044

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NOV 0 6 2003

OFFICE OF PETITIONS

In re Application of
Wico Van Helden, et al.
Application No. 09/972,673
Filed: October 5, 2001
Attorney Docket No. 9353-35324

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 1, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 28, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2123 for examination in due course.

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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Paper No. 12

MAIL

APR 2 5 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John X. Garred
ARTER & HADDEN, LLP
1100 Huntington Building
925 Euclid Avenue
Clevelend, OH 44115-1475

In re Application of:
Klaus SIGL
Application No.: 09/972,679
Filed:October 8, 2001
For: ERROR CONDITION PROCESSING
IN AN AUTOMATION SYSTEM

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 April 14, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on April 4, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Baker & Botts LLP as the attorneys of record of the instant application. The Power Of Attorney of April 4, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Baker & Botts, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

FOR Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Andreas Grubert
BAKER BOTTS L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

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Merchant & Gould PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of:
GUIRE et al.
Application No.: 09/972,687
Filing Date: October 5, 2001
Attorney's Docket No.: 13288.15US01
For: RANDOMLY ORDERED ARRAYS AND METHODS OF MAKING AND USING

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2005, to revive the above-entitled 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 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed on February 27, 2004, and no extension of time under the provision of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the above-identified application became abandoned on April 28, 2004. See MPEP 1215.04.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and submission as required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Attorney-Advisor, Anthony Smith at (571) 272-3298 or in his absence, the undersigned at (571) 272-3217.

The application is being referred back to GAU 1639 further processing.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office Of Petitions

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MINNEAPOLIS MN 55402-0903

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APR 14 2006

OFFICE OF PETITIONS

In re Application of :
Anderson : ON PETITION
Application No.: 09/972,699 :
Filed: October 5, 2001 :
Attorney Docket No.: SEA9942/30874.110USU1 :
For: METHOD OF FORMING A FEATURE
HAVING A HIGH ASPECT RATIO

This is a decision on the petition under 37 CFR 1.181, filed April 14, 2005 (certificate of mailing date April 12, 2005) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit the issue fee and corrected formal drawings in response to the August 11, 2004 Notice of Allowance and Fee(s) Due and Notice of Allowability, which set a three month period for reply. No reply being received, the Office contended that this application became abandoned on November 12, 2004. A Notice of Abandonment was mailed on January 3, 2005.

Petitioner alleges that the August 11, 2004 Notice of Allowance and Fee(s) Due was not received. It is assumed that the August 11, 2004 Notice of Allowability was not received, either.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has proven non-receipt. The petition is granted. The $130.00 fee submitted with the instant petition will be refunded to deposit account no. 13-2725.

After the mailing of this decision, the application will be returned to Technology Center A.U. 3729 for the re-mailing of the August 11, 2004 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Paper No. 16

RICHARD FOX
DERMAMEDICS, INC.
4475 VINELAND
SUITE 31
NORTH HOLLYWOOD, CA 91601

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JUN 1 7 2004

OFFICE OF PETITIONS

In re Application of :
Fox et al. :
Application No. 09/972,713 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. 39471.00002.RCE :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 29, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 22, 2003. A Notice of Abandonment was mailed on January 26, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Revocation of Power of Attorney or Authorization of Agent submitted with the instant petition on April 29, 2004, is hereby not accepted. **A Statement under 37 CFR 3.73(b) must be submitted for the assignee to take action.** In this regard, the 3.73(b) must include the reel and frame number showing the chain of title from the inventor(s), of the patent application above, to the current assignee. Petitioner may also submit any documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. Submission of the Statement under 37 CFR 3.73(b) will allow the Revocation of Power of Attorney to be accepted.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time fee submitted with the petition on April 29, 2004 was

subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JANE K. BABIN, PH.D., ESQ.
PAUL, HASTINGS, JANOFSKY & WALKER, LLP
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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Paper No. 5

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JUL 2 1 2003

OFFICE OF PETITIONS

John A. Parrish
Law Offices of John A. Parrish
Suite 300
Two Bala Plaza
Bala Cynwyd PA 19004

In re Application of
Kumar
Application No. 09/927,727
Filed: October 5, 2001
For: SOLUTIONS OF CAROTENOIDS FOR USE IN FOODS AND PERSONAL CARE PRODUCTS

DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2003, to revive the above-identified application.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR§ 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned June 14, 2001 for failure to timely file a complete reply to the Notice to File Missing Parts of Nonprovisional Application mailed April 13, 2001. The Notice set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy item (1) set forth above. Petitioner has submitted $78.00 for independent claims in excess of three. The fee currently due for claims in excess of three is currently $84.00. Any renewed petition must be accompanied by the outstanding balance due, $10.00.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

John A. Parrish
Law Offices of John A. Parrish
Suite 300
Two Bala Plaza
Bala Cynwyd PA 19004

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SEP 3 0 2003

OFFICE OF PETITIONS

In re Application of
Kumar
Application No. 09/972,727
Filed: October 5, 2001
Atty. Dkt. No.: APB-002

: DECISION GRANTING
: PETITION UNDER 37 CFR
: 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is hereby **GRANTED**.

The application became abandoned June 14, 2001 for failure to timely file a complete reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed April 13, 2001. The Notice set a two (2) month shortened statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed August 5, 2003. A petition under 37 CFR 1.137(b) was filed June 10, 2003 ane dismissed July 21, 2003.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely file a proper response to the Notice mailed April 13, 2001 is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding the content of this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Steven J. Keough, et al :
Application No. 09/972,730 : ON PETITION
Filed: October 4, 2001 :
Attorney Docket No. 43519.14.0 :

This is a decision on the petition, filed December 17, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

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 Steven J. Keough 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. Keough 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.

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 Art Unit 2654.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: STEVEN J. KEOUGH
1912 SUMMIT AVE
ST PAUL, MN 55105

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

Kevin A. Oliver
FOLEY, HOAG & ELIOT, LLP
Patent Group
One Post Office Square
Boston, MA 02109

MAILED

MAR 0 2 2004

Technology Center 2100

In re Application of:
Scott S. Lawton
Application No. 09/972,739
Filed: October 05, 2001
For: METHOD AND SYSTEM FOR ENTERING SEARCH CRITERIA USING MULTIPLE ENTRY FIELDS PER DATA ELEMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed December 11, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FM James R. Matthews
Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Scott Lawton
CATCHMAKER
24 Colonial Drive
Chelmsford, MA 01824

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Paper No. 8

MICHAEL A. BLAKE
SIERRA PATENT GROUP, LTD.
P O BOX 6149
STATELINE NV 89449

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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
David Muradian et al	:	
Application No. 09/972,742	:	DECISION GRANTING PETITION
Filed: October 5, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. HEUR-009CIA	:	

This is a decision on the petition, filed May 12, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 4, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2829 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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SAN JOSE CA 95170-0640

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OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Application No. 09/972,765 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. P0861 :

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 3, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on October 5, 2001, with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On September 30, 2002 (Certificate of Mailing dated September 24, 2002), applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on October 2, 2002.

As a Request to Rescind Previous Nonpublication Request was filed on September 30, 2002, before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, setting forth a projected publication date of February 26, 2004, accompanies this decision on petition.

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

The petition fee of $1330 will be refunded under separate cover.

The application file is being forwarded to Technology Center 1700, Group Art Unit 1765.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing (1 page)

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Paper No. 5

FOLEY HOAG, LLP
Patent Group, World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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DEC 22 2003

Technology Center 2100

In re Application of
Scott S. LAWTON
Application No. 09/972,791
Filed: October 5, 2001
For: ENHANCED METHOD AND SYSTEM FOR VIEWING ANY SEARCH RESULT WITHOUT RETURNING TO THE RESULT LIST

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: Scott Lawton
Catchmaker
24 Colonial Drive
Chelmsford, MA 01824

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 18, 2008

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/972797 Patent No.: 7363472 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: The foreign priority correction is approved and should be entered. However, none of applicant's proposed claim amendments are approved. Therefore, the claim corrections should not be entered. It was noted by the examiner that one particular examiner's amendment wasn't made. Specifically, in claim 1, 2nd to last line, "or each" should be replaced w/ --at least one--.

EDDIE CHAN /Eddie C/ 2183
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
Art Unit

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Paper No. 15

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3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402

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FEB 12 2004

OFFICE OF PETITIONS

In re Application of
Sundeep Khosla, et al.
Application No. 09/972,809
Filed: October 5, 2001
Attorney Docket No. 07039-322001

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 12, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 19, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 1654 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).

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MAY 16 2005

OFFICE OF PETITIONS

Fish & Richardson, P.C., P.A.
60 South Sixth Street
Suite 300
Minneapolis, MN 55402

In re Application of
Khosla et al.
Application No. 09/972,809
Filed: October 5, 2001
Attorney Docket No. 07039-322001

: DECISION GRANTING PETITION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 12, 2004. Patentees request that the initial determination of patent term adjustment be corrected from seventy-two (72) to eighty-two (82) days.

The application for patent term adjustment is **GRANTED**. The Office will adjust the PAIR calculation to reflect that the proper PTA at the time of the mailing of the notice of allowance is eighty-two (82) days.

On May 13, 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 72 days. On August 12, 2004, patentees timely[1] submitted an application for patent term adjustment (with required fee). Patentees dispute the reduction of 10 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed December 14, 2000. Patentees state that they timely responded to the Notice on March 15, 2002.

A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed January 16, 2002, is of record in the application with a date of receipt by the Office of March 15, 2002. Moreover, the response is complete and proper. As this response was filed within the three-month period under 37 C.F.R. § 1.704(b), there was no applicant delay.

Accordingly, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is eighty-two (82) days.

[1] PALM records show that the Issue Fee payment was also received in the Office on August 12, 2004.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publications for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, at (571) 272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjusted Pair Calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

In re Patent of Khosla et al. :
Patent No. 6,916,790 : Decision on Request for Reconsideration
Issue Date: July 12, 2005 : of Patent Term Adjustment
Application No. 09/972,809 : and Notice of Intent to Issue
Filing Date: October 5, 2001 : Certificate of Correction
Attorney Docket No. 07039-322001 :

This is a decision in response to the "Application For Patent Term Adjustment Under 37 CFR 1.705(D)" filed September 14, 2005, which in essence requests that the Patent Term Adjustment for the above-identified patent be set at two hundred ninety-four (294) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred ninety-four (294) days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed with the Notice of Allowance on May 13, 2004, stated the patent term adjustment to date was 72 days.

On August 12, 2004, patentees filed the issue fee, a request under 37 CFR 1.705(b), and documents to support the petition under 37 CFR 1.705(b). The request was granted May 16, 2005, and the Office manually increased the patent term adjustment by 10 days.

The application matured into Patent No. 6,916,790 on July 12, 2005. The printed patent shows a Patent Term Adjustment of 83 days. The revised adjustment determination was calculated as follows:

> The initial determination of PTA of 82 days was increased 10 days per the May 16, 2005 decision and 211 days for Office delay in issuing the patent. The determination was reduced 120 days and 90 days, for the filing, after allowance, of "supplemental papers - oath or declaration" and a "miscellaneous incoming letter."

Patentees first contend an increase of 212 days, rather than 211 days, is proper pursuant to 37 CFR 1.703(a)(6). The 211 day increase resulted from the Office using August 13, 2004, as the date the issue fee was submitted. However, patentees have established the issue fee was submitted August 12, 2004. Therefore, an increase of 212 days is appropriate.

Patentees contend the reduction of 120 days for the "miscellaneous incoming letter" filed on August 12, 2004, and the reduction of 90 days for the "supplemental papers - oath or declaration" were improper. Patentees' contention is well taken.

A review of the PALM calculations for this patent reveals that the determination of PTA was reduced by 90 days for applicant's submission of "supplemental papers - oath or declaration" on *November 10, 2004*. However, a review of the application record supports a conclusion that the supplemental papers were actually filed in the application on *August 12, 2004*, with the request under 37 CFR 1.705(b).

The "miscellaneous incoming letter" and the "supplemental papers - oath or declaration" were filed as part of the request under 37 CFR 1.705(b). A review of the record indicates the supplemental papers were, in essence, exhibits to the request under 37 CFR 1.705(b). 37 CFR 1.704(e) states,

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

In view of 37 CFR 1.704(e), the reduction of 120 days and 90 days, for a total of 210 days, was improper.

The patent term should have been increased 212 days, rather than 211, pursuant to 37 CFR 1.703(a)(6) and should not have been reduced by 210 days pursuant to 37 CFR 1.704(c)(10). In other words, the patent term adjustment indicated on the patent should have been two hundred ninety-four (294) days.

The patent term adjustment indicated on the patent will be corrected to 294 days by way of issuance of a Certificate of Correction pursuant to 35 U.S.C. 254 and 37 CFR 1.322.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by TWO HUNDRED NINETY-FOUR (294) days subject to any disclaimers.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,916,790 B1

APPLICATION NO.: 09/972,809

ISSUE DATE : July 12, 2005

INVENTOR(S) : Khosla 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 (83) days

Delete the phrase "by (83) days" and insert -- by (294) days--

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Paper No. 13

NICOLE E. COPPES-GATHY
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MAY 2 1 2003

OFFICE OF PETITIONS

In re Application of :
Frank W. Hawley et al :
Application No. 09/972,825 : DECISION GRANTING PETITION
Filed: October 2, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. ACT-309 :

This is a decision on the petition, filed May 12, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on September 30, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been previously rescinded.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2811 for appropriate action on the reply received March 25, 2003 to the nonfinal Office action mailed September 18, 2002.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 19

KENNETH D'ALESSANDRO
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APR 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Hawley et al. :
Application No. 09/972,825 : DECISION ON PETITION
Filed: October 2, 2001 :
Attorney Docket No. ACT-309 :

This is in response to the communication entitled "Request for Refund of Petition Fee," filed June 2, 2003, which is being treated as (1) a petition under 37 CFR 1.181 for refund, and (2) a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.4(b).

The petition considered under 37 CFR 1.181 for a refund is **dismissed**.

The petition considered under 37 CFR 1.183 as a request for waiver of the rules is **dismissed.**

BACKGROUND

The above-identified application papers were deposited on October 2, 2001. With the filing, applicant included a "Request for Nonpublication Pursuant to 37 C.F.R. § 1.213," which reads:

> Applicant hereby requests that this application not be published under 35 U.S.C. § 122(b). Applicant certifies that the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multi-lateral agreement, that requires publication at eighteen months after filing.

However, on October 30, 2001, the office of Initial Patent Examination mailed a Notice indicating that while the instant application papers were entitled to a filing date, the application remained incomplete and the deficiencies noted therein had to be supplied within an extendable two month period or the application would become abandoned.

On January 18, 2002, applicant timely filed the missing items required by the Notice of October 30, 2001, by way of the executed Certificate of Mailing dated December 28, 2001.

On September 30, 2002, applicant filed an international treaty (PCT) application with the USPTO as the receiving office that apparently claimed priority benefit of the instant application.

On October 7, 2002, applicant filed a "Transmittal Letter for Request to Rescind Nonpublication," along with Form PTO/SB/36 (11-00). This request stated that "I hereby rescind the previous request that the above-identified Application not be published under 35 U.S.C. 122(b)." The rescission clearly does not make any mention that a PCT application had been be filed on September 30, 2002.

On May 12, 2003, applicant filed a petition to revive under 37 CFR 1.137(f) and stated that the invention disclosed in the above-identified application was filed in a foreign country or under international treaty entailing 18 month publication on September 30, 2002. Since applicants first provided the notice of foreign filing as required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) when applicant filed the petition to revive on May 12, 2003, the notice of the foreign filing as required by 35 U.S.C. 122(b)(2)(B)(iii) was not filed within 45 days of the date of filing of the international application. As such, the above-identified application became abandoned midnight on November 15, 2002.

On June 2, 2003 the instant petition was filed.

The petition under 37 CFR 1.137(f) filed May 12, 2003, was granted in the decision of May 21, 2003, which excused applicant's unintentional delay in filing the necessary timely notification.

STATUTE AND REGULATION

35 U.S.C. § 122b(2)(B) states, in pertinent part:

> (i) If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided

in paragraph (1).

(ii) **An applicant may rescind a request made under clause (i) at any time.**

(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. **A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned,** unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

(iv) If an applicant rescinds a request made under clause (i) **or** notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).[1]

37 CFR 1.213 states:

(a) If the invention disclosed in an application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the application will not be published under 35 U.S.C. 122(b) and § 1.211 provided:

(1) A request (nonpublication request) is submitted with the application upon filing;

(2) The request states in a conspicuous manner

that the application is not to be published under 35 U.S.C. 122(b);

---

[1] Emphasis added.

(3) The request contains a certification that the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing; and

(4) The request is signed in compliance with § 1.33(b).

(b) The applicant may rescind a nonpublication request at any time. A request to rescind a nonpublication request under paragraph (a) of this section must:

(1) Identify the application to which it is directed;

(2) State in a conspicuous manner that the request that the application is not to be published under 35 U.S.C. 122(b) is rescinded; and

(3) Be signed in compliance with § 1.33(b).

(c) If an applicant who has submitted a nonpublication request under paragraph (a) of this section subsequently files an application directed to the invention disclosed in the application in which the nonpublication request was submitted in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the Office of such filing within forty-five days after the date of the filing of such foreign or international application. The failure to timely notify the Office of the filing of such foreign or international application shall result in abandonment of the application in which the nonpublication request was submitted (35 U.S.C. 122(b)(2)(B)(iii)).

OPINION

Applicant requests a refund for the following reasons:

1. The position taken by the USPTO that a transmittal letter to the Receiving Office (USPTO) does not constitute notice of such

filing because of the provisions of 37 CFR 1.4(b) is legally incorrect.

2. The statute, as well as the rule, does not specify the manner in which such notice of foreign filing be given to the Director, but merely provides that notice of a foreign filing be given.

3. Neither the Notice of Proposed Rulemaking, 65 FR 17946, 17957 (2000), nor the final rulemaking notice in the Official Gazette of October 10, 2000, specify or imply any requirement that the statutory notice to the Director be captioned as or even placed in the file of the United States patent application.

4. Lastly, applicant submits that the filing of the PCT request in the PCT Receiving Office of the United States serves as the notice to the Director of the filing of the PCT application as required by both 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c); that the filing of any paper in the USPTO constitutes actual notice to the Director of the filing of that paper.

Applicant additionally requests suspension of the provisions of 37 CFR 1.4(b) under 37 CFR 1.183, which latter issue will be treated first.

With respect to the petition for waiver under 37 CFR 1.183:

Since this petition is not accompanied by the $130 fee required by 37 CFR 1.17(h) for filing a petition under 37 CFR 1.183, no consideration on the merits of the petition will be given.

With respect to the request for refund:

The legislative history relevant to the instant issues, as reported in the Congressional indicates that, if applicant has requested nonpublication because the application will not be filed "in a foreign country with a publication requirement, subparagraph (B)(iii) imposes a duty on the applicant to notify the Director of this fact. An unexcused failure to notify the Director will result in abandonment of the application." See 145 Cong. Rec. S14,718 (November 17, 1999).

35 U.S.C. 122(b)(2)(B)(iii) provides that if an applicant informs the Office that the application has not been and will not be "foreign filed," such an applicant must inform the Office of the subsequent foreign filing no later than 45 days after foreign filing or the application will be treated as abandoned. Since

applicant did not provide the required notice, the above-identified application is properly treated as abandoned, and the fees for the necessary remedy fell due. 35 U.S.C. § 42(d) permits a refund of "any fee paid by mistake or any amount paid in excess of that required." Thus, the United States Patent and Trademark Office (USPTO) may refund: (1) a fee paid when no fee is required (a fee paid by mistake); or (2) any fee paid in excess of the amount of fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to fee payment). However, petitioner has not shown, nor does inspection of the record reveal, that the fees in question were paid either in excess or by mistake. Since the fees were paid in the proper amounts, there is no question as to whether the fees were laid in excess. Further, since this application became abandoned by operation of 35 U.S.C. 122(b), the petition fee for revival of this application was not a fee paid by mistake. As such, no refund is due applicant.

Contrary to petitioner's contentions, a review of the file record fails to disclose that applicant's rescission notice filed October 17, 2001, made any mention of a foreign or international treaty filing that had or would occur. Applicant's rescission notice simply does not state that the form should be treated as notice of foreign filing pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c). Nothing in a rescission of a nonpublication request implies that the U.S. application has been or will be foreign filed. Most patent applications filed on or after November 29, 2000, will be published, unless applicant files a request for nonpublication in compliance with 37 CFR 1.213(a). A nonpublication request is required to contain a certification that "the invention disclosed in the application has not been and will not be the subject of an application filed in another country, or under a multilateral international agreement that requires publication at eighteen months after filing." Applicants who do not plan to file in another country are not required to file such a certification, and given that provisional rights (see 35 U.S.C. § 154(d)) may become available to those who have their patent applications publish, some applicants who do not plan to file in another country may elect to have their application published to be eligible for provisional rights. As a result, the filing of a rescission of a nonpublication request does not imply that the invention has been or will be foreign filed, and instead simply denotes that applicant now desires to have the application published in the United States, which of course may confer provisional rights.

Furthermore, if a mere notice of rescission could properly be construed as a concomitant notice of foreign filing, without any reference to a foreign filing, then 35 U.S.C. § 122(b)(2)(B)(iii) would have included some reference to a rescission. For example, the statute could have provided that the "rescission specified in clause (ii) must be filed no later than 45 days after the date of foreign filing." Instead, clause (iii) specified that an "applicant who has made a request under clause (i)...shall notify the Director of such filing no later than 45 days after the date of such filing."

Implicit in providing notice of foreign filing is a rescission of the nonpublication request for both actions will result in publication of the application (see 35 U.S.C. 122(b)(2)(B)(iv)), but a request to publish a patent application (to rescind a nonpublication request) does not communicate any information about, or is otherwise necessarily linked to, a foreign or international treaty filing. Thus, the statute clearly identifies rescission of a nonpublication request and notification of a foreign filing as two separate acts, and a rescission in and of itself cannot be construed as notice of foreign filing.

Here, applicant's request to rescind the previously filed nonpublication request did not provide any notice of the foreign filing. Accordingly, it did not comply with 35 U.S.C. 122(b)(2)(B)(iii). The Office has no authority pursuant to 37 CFR 1.183 to treat a rescission under 35 U.S.C. 122(b)(2)(B)(ii) as the notice of foreign filing required by 35 U.S.C. 122(b)(2)(B)(iii). In addition, the Office has no authority to waive the 45 day period set forth in 35 U.S.C. 122(b)(2)(B)(iii), as a result, the application must be regarded as abandoned. **These are statutory requirements and a statutory requirement can not be waived under the provisions of 37 CFR 1.183.**

As to the arguments that no specific notice is required and that filing an international [PCT] application in the United States Receiving Office was the required notification of foreign filing to the Director, these arguments are also not persuasive. 37 CFR 1.213(c) requires the applicant to provide notice, and 37 CFR 1.4(b) provides that each application must be complete in itself. While petitioner contends that 37 CFR 1.213 does not specify that the notification have been filed in this application, 37 CFR 1.4(b) does require that this file be complete in of itself. The PCT filing transmittal was not a paper captioned for this application within the meaning of 37 CFR 1.5.

An international application would not be placed into the file of an application that it relies upon for the benefit of an earlier filing date, and so applicant was required to file a separate paper pursuant to 37 CFR 1.4(b) in the above-identified application for any notice to be property given. Therefore, the mere filing of a PCT application is not the notification required by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c). Petitioner's attention is also directed to 37 CFR 1.4(c), which states:

> Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Pursuant to 37 CFR 1.4(c), the separate paper was required to address a distinct subject, so a notification of foreign filing was required to be on a separate paper from another matter (such as a transmittal of a new application). 37 CFR 1.4(b) and 1.4(c) refute petitioner's contention that notice to the PCT Receiving Office operation within the USPTO also is the required notice the national stage processing area(s) of a foreign or treaty filing, and likewise answer petitioner's assertion that 35 U.S.C. 122 (b) and 37 CFR 1.213 do not require that the applicant inform the USPTO of the later treaty or foreign filing by filing a notice in the prior U.S. national application.

Indeed inspection of 35 U.S.C. 122(b) itself refutes applicant's contentions that the mere fact of filing of the PCT application operated as the required statutory notice to the USPTO. The relevant clause of 35 U.S.C. 122(b)(2)((B)(iii) sets forth that the applicant who, as here, has filed an application under a multilateral international agreement **directed to the invention disclosed in the application filed in the Patent and Trademark office, shall notify the Director... of such filing.**" Thus, the obligation to make a comparison of the invention disclosed in the application filed in the United States, with the invention disclosed in the application filed in the foreign country or under the multilateral international agreement rests with the applicant who has made the filings.

Petitioner would have the USPTO believe The statute does not obligate the Director to make a comparison of the invention

disclosed in each applicant's U.S. application with the invention disclosed in each and every of that same applicant's foreign applications or applications filed under a multilateral international agreement; that is the applicants duty. Indeed, it would be impossible for the USPTO to try to detect any--much less all--foreign or treaty filings of all those applicants who likewise have filed an application in the U.S., Further such would fly in the face of the applicant's certification present on filing that no such foreign or treaty filing had been or would be undertaken, on the mere chance hat a possible abandonment under § 122(b) had occurred, and such would prevent the USPTO from performing its more substantive duty of examining the applications it has on file.

Such an interpretation of the statute is untenable and the burden such an interpretation it would place on the USPTO unbearable. But see Griffin v. Oceanic Contractors, Inc., 458 U.S. 564, 575 (1982)("[I]nterpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available.") Rather, such a burden is properly borne by those who do the diverse filings and as such are in the best position to make the relationship determination required by 35 U.S.C. 122(b)(2)(B)(i).

Indeed it would be improper for the Director to assume, contrary to what petitioner appears to contend, that each and every notification of the fact that benefit of a prior U.S. national application was being claimed upon USPTO receipt of a filing under the PCT filing was the notification required by 35 U.S.C. 122(b)(2)(B)(iii). If such were to be construed as a proper notification then the USPTO the referenced U.S. national application would automatically be cleared for pre grant publication. However, that would tend to compromise the confidentiality requirements of 35 U.S.C. 122(a) for those referenced applications, based upon an unwarranted assumption, by the USPTO, that the PCT application was directed to the invention disclosed in the prior U.S. national application.

However, the mere fact that benefit of a given prior U.S. national application may have been claimed when a PCT application was deposited with the USPTO does not necessarily mean the PCT application is directed to the invention disclosed in the given prior U.S. national application filed in the United States within the meaning of 35 U.S.C. 122(b)(2)((B)(i). Cf. In re Gosteli, 872 F.2d. 1008, 10 USPQ2d 1614 (Fed. Cir. 1989) (patentee's § 120

claim for benefit of filing date of an earlier filed U.S. application refused, notwithstanding satisfaction of the formal requirements to claiming benefit of the aforementioned application, since judicial determination holds later claimed invention not found in prior application); New Railhead Manufacturing LLC v. Vermeer Manufacturing Co.,63 USPQ2d 1843 (Fed Cir. 2002) (patentee's § 119(e) claim for benefit of filing date of earlier filed U.S. provisional application refused notwithstanding satisfaction of the formal requirements for claiming benefit, since judicial determination holds later claimed invention not found in prior provisional application)..

A fair reading of 35 U.S.C. 122b reveals that it is the applicant who has filed the prior application in the U.S. and the later application under a treaty PCT or in a foreign country, who must notify the USPTO within 45 days when that treaty or foreign application is directed to the invention already on file at the USPTO. The statute does not make distinctions between whether the applicant has deposited the subsequently filed application in the USPTO as the receiving office, or with a foreign receiving office, or even with a foreign patent office; the statute requires the applicant to notify the USPTO within 45 days of that deposit if the latter filed application is for the invention disclosed in the prior U.S. application. Only the applicant, not the USPTO, is able to make the determination that the latter filed application is for the invention disclosed in the prior U.S. application for all eventualities. Contrary to petitioner's position, the statute does not authorize, much less compel, the USPTO to determine if the later filed treaty or foreign application is for the invention disclosed in the application on file in the USPTO. If such were the case then the USPTO would have to continuously monitor all foreign patent offices and treaty application receiving offices for all priority claims involving prior U.S. filed applications, and if no notification was received within 45 days of the later filing or deposit or no withdrawal had been received in the USPTO, hold the application abandoned. Such an absurd result is avoided merely by interpreting the statute as requiring the applicant to make the comparison as well as the notification. See Griffin, supra.

This application is being returned to Technology Center AU 2811.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
MUNK, Jens Aage	:	
Application No. 09/972,828	:	DECISION GRANTING PETITION
Filed: October 4, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NN-38-6152.200 US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 27, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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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OFFICE OF PETITIONS

In re Application of	:	
JENS AAGE MUNK	:	LETTER REGARDING
Application No. 09/972,828	:	PATENT TERM ADJUSTMENT
Filed: October 4, 2001	:	
Atty Docket No.6152.200-US	:	

This letter is in response to the "APPLICANT STATEMENT REGARDING PATENT TERM ADJUSTMENT CALCULATION," filed August 12, 2008. Pursuant to applicant's duty of good faith and candor to the Office, applicant requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of 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 **548 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 21, 2008, 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 is 686 days. On August 12, 2008, applicant submitted the instant comment.

Applicant discloses that applicant believes the correct determination of patent term adjustment under 35 U.S.C 154(b) at

the time of the mailing of the notice of allowance is 668 days, not 686 days. Specifically, applicant asserts that the period of patent term adjustment should be reduced by 18 days pursuant to 37 CFR 1.704(c)(8) for the filing of a supplemental reply in the form of a Supplemental Information Disclosure Statement (IDS) on August 14, 2007.

A review of the application history confirms that the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) is incorrect.

A review of the record further reveals that a petition to withdraw from issue, a request for continued examination (RCE) and an IDS were filed on July 27, 2007, after the mailing of the notice of allowance on March 8, 2007 (and after payment of the issue fee on June 5, 2007). The Office mailed a response to the petition to withdraw from issue on August 1, 2007. Accordingly, the submission of the petition to withdraw from issue, RCE and IDS after the mailing of the notice of allowance is a proper basis under 37 CFR 1.704(c)(10)[1] for reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping. See 37 CFR 1.704(c).

On August 14, 2007, applicant filed a Supplemental IDS after the mailing of the notice of allowance. Applicant is incorrect that a period of reduction of 18 days pursuant to 37 CFR 1.704(c)(8) should be entered for the submission of the Supplemental IDS. As the Supplemental IDS was also filed after the mailing of the notice of allowance, the basis for entry of a period of reduction continues to be 37 CFR 1.704(c)(10).

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[1] 37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

On May 21, 2008, a notice of allowance was mailed in response to the RCE and IDS filed July 27, 2007, and to the Supplemental IDS filed August 14, 2007. Moreover, a review of the IDS filed June 27, 2007, and the Supplemental IDS filed August 14, 2007, reveals that applicant did not include a statement under 37 CFR 1.704(d)[2] in either IDS. Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application.

Pursuant to 37 CFR 1.704(c)(10), a first period of reduction of the lesser period of four months (120 days) should have been entered for the submission of the petition to withdraw from issue, RCE and IDS filed July 27, 2007. See 37 CFR 1.704(c)(10)(ii). Pursuant to 37 CFR 1.704(c)(10), a second period of reduction of the lesser period of four months (120 days) should have been entered for the submission of the Supplemental IDS filed August 14, 2007. See 37 CFR 1.704(c)(10)(ii).

37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application ... will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping." In this instance, the periods under 37 CFR 1.704(c)(10) overlap. Specifically, the overlap of the periods of reduction under 37 CFR 1.704(c)(10) is August 14, 2007 to May 21, 2008. Therefore, in consideration of the periods of overlap, a period of reduction of 18 days (from July 27, 2007 to August 13, 2007) will be entered for the submission of the petition to withdraw from issue, RCE and IDS filed July 27,

---

[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 (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.

2007. See 37 CFR 1.704(c)(10). Additionally, a second period of reduction of 120 days (from August 14, 2007 to May 21, 2008) will be entered for the submission of the Supplemental IDS filed August 14, 2007. See 37 CFR 1.704(c)(10).

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **548 days** (871 days of Office delay - 323 days (27 + 158 + 18 + 120) of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicant for applicant's good faith and candor in bringing this to the attention of the Office.

Applicant is 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 applicant will be notified in the Issue Notification letter that is mailed to applicant 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.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Thursday

Date: 2/5/2009
Time: 14:30:10

PALM INTRANET

PTA Calculations for Application: 09/972828			
Application Filing Date:	10/04/2001	PTO Delay (PTO):	871
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	185
Post-Issue Petitions:	0	Total PTA (days):	548
PTO Delay Adjustment:	-138		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
103	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		120	
102	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		18	
101	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		18	
100	02/05/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	18		
84	05/21/2008	MAIL NOTICE OF ALLOWANCE	176		66
83	05/19/2008	ISSUE REVISION COMPLETED			
82	05/19/2008	DOCUMENT VERIFICATION			
81	05/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	05/12/2008	NOTICE OF ALLOWABILITY			
75	07/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
74	07/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	03/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
72	08/14/2007	REFERENCE CAPTURE ON IDS			
71	08/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
70	07/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	07/27/2007	REFERENCE CAPTURE ON IDS			
68	07/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	08/02/2007	DATE FORWARDED TO EXAMINER			
66	07/27/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
65	08/02/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

64	08/01/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
63	07/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	07/27/2007	PETITION ENTERED			
61	07/27/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
60	06/05/2007	ISSUE FEE PAYMENT VERIFIED			
59	06/05/2007	ISSUE FEE PAYMENT RECEIVED			
58	03/30/2007	PUBS CASE REMAND TO TC			
57	04/04/2007	WORKFLOW - QUERY REQUEST - BEGIN			
56	03/12/2007	EXPORT TO INITIAL DATA CAPTURE			
55	03/08/2007	MAIL NOTICE OF ALLOWANCE	245		42
54	03/08/2007	MAIL EXAMINER'S AMENDMENT			
53	03/07/2007	ISSUE REVISION COMPLETED			
52	10/03/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	10/02/2006	EXAMINER'S AMENDMENT COMMUNICATION			
50	10/02/2006	NOTICE OF ALLOWABILITY			
49	09/27/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	10/19/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	05/15/2006	CASE DOCKETED TO EXAMINER IN GAU			
46	09/27/2002	REFERENCE CAPTURE ON IDS			
45.7	09/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	09/27/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44.7	10/19/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	10/19/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/09/2006	DATE FORWARDED TO EXAMINER			
42	03/06/2006	RESPONSE AFTER NON-FINAL ACTION		158	39
41	02/09/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
40	11/08/2005	DATE FORWARDED TO EXAMINER			
39.1	09/29/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
39	09/29/2005	RESPONSE AFTER NON-FINAL ACTION			

38	06/29/2005	MAIL NON-FINAL REJECTION			
37	06/27/2005	NON-FINAL REJECTION			
36	04/11/2005	REFERENCE CAPTURE ON IDS			
35.7	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	33
35	04/11/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	04/19/2005	DATE FORWARDED TO EXAMINER			
33	04/11/2005	RESPONSE AFTER NON-FINAL ACTION		27	31
32	04/11/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	12/15/2004	MAIL NON-FINAL REJECTION			
30	12/10/2004	NON-FINAL REJECTION			
29	12/02/2004	DATE FORWARDED TO EXAMINER			
28	11/23/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
27	12/02/2004	DATE FORWARDED TO EXAMINER			
26	11/23/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
25	12/02/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
24	11/23/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	11/23/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
22	08/25/2004	MAIL FINAL REJECTION (PTOL - 326)			
21	08/23/2004	FINAL REJECTION			
20	08/04/2004	CORRESPONDENCE ADDRESS CHANGE			
19	06/08/2004	DATE FORWARDED TO EXAMINER			
18	05/27/2004	RESPONSE AFTER NON-FINAL ACTION			
17	05/27/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	04/23/2004	CORRESPONDENCE ADDRESS CHANGE			
15.7	08/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	08/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	04/06/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	04/06/2004	CORRESPONDENCE ADDRESS CHANGE			
12	02/27/2004	MAIL NON-FINAL REJECTION	450		-1
11	02/23/2004	NON-FINAL REJECTION			
10	04/16/2002	CASE DOCKETED TO EXAMINER IN GAU			

9	03/13/2002	APPLICATION DISPATCHED FROM OIPE			
8	03/05/2002	APPLICATION IS NOW COMPLETE			
7	01/15/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	01/15/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	01/15/2002	OMMITED DRAWINGS. APPLICANT HAS PETITIONED THAT THE FILING DATE NOT BE CHANGED AND THE PETITION HAS			
4	11/02/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/02/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/04/2001	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

PATENT & TRADEMARK OFFICE DEC 31 2001 OIPE JC61

1-8002 sector 8

Patent

Attorney Docket: 267/301 #3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael I. Nerenberg et al.

Serial No.: 09/972,830

Filed: October 5, 2001

For: **MAGNETIC BEAD-BASED ARRAY FOR GENETIC DETECTION**

Group Art Unit: 1643

Examiner: Not yet assignedr

TRANSMITTAL OF MISSING PARTS

Box MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

Sir:

I. DOCUMENTS ENCLOSED:

In response to the **NOTICE TO FILE MISSING PARTS OF APPLICATION UNDER 37 CFR § 1.53(f)**, which was mailed by the Patent Office on October 29, 2001, enclosed are:

- ☒ Declaration
- ☐ Power of Attorney: ☐ Separate or ☐ Combined with Declaration
- ☐ Assignment of the invention to _____ (together with PTO Form 1595)
- ☒ Preliminary Amendment 2nd
- ☒ Copy of Notice to File Missing Parts of Application under 37 CFR § 1.53(f)

☒ If any extension fee is required, please consider this a petition therefor.

OC-100160.1

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that I have reasonable cause to expect that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Patents, Washington, DC 20231.

Express Mail Label No.: EL622500923US
Date of Deposit: December 31, 2001

Micheal A. Smith

#3

Patent
Attorney Docket: 267/301

II. FILING FEES

☒ Applicant claims small entity status pursuant to 37 CFR 1.27.

BASIC FILING FEE:						$740.00
Total Claims	18	- 20 =	0	x $18.00		$0.00
Independent Claims	3	- 3 =	0	x $84.00		$0.00
Multiple Dependent Claims	$280	(if applicable)			☐	$0.00
Surcharge 37 CFR § 1.16(e)	$130	(if applicable)			☒	$130.00
TOTAL OF ABOVE CALCULATIONS						$870.00
Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28.					☒	$435.00
Extension of Time (from above)						$0.00
Assignment -- $40 (if applicable)					☐	$0.00
TOTAL FEES SUBMITTED HEREWITH						$435.00

III. METHOD OF PAYMENT OF FEES:

☐ A check in the amount of _____ is enclosed to cover the above fee(s).

☒ Charge Lyon & Lyon's Deposit Account No. **12-2475** in the amount of **$435.00**.

☒ The Commissioner is authorized to charge Lyon & Lyon's Deposit Account No. **12-2475** for any fees required under 37 CFR §§ 1.16, 1.17 and 1.445 that are not covered, in whole or in part, by a check enclosed herewith and to credit any overpayments to said Deposit Account No. **12-2475**.

Respectfully submitted,

LYON & LYON LLP

Dated: December 28, 2001

By: _____
Patrick S. Eagleman
Reg. No. 44,665

22249
PATENT TRADEMARK OFFICE

LYON & LYON LLP
Suite 4700
633 W. Fifth Street
Los Angeles, CA 90071
(213) 489-1600

#3

OIPE JC61 DEC 31 2001 PATENT

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
09/972,830	10/05/2001	Michael I. Nerenberg	267/301

CONFIRMATION NO. 3809

FORMALITIES LETTER

FR

OC000000006990578

22249
LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

Date Mailed: 10/29/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Missing parts 12/29/01

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 $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $280.
  - **$280** for multiple dependent claim surcharge.
- 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 $ 1150.**

A copy of this notice MUST be returned with the reply.

41

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

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U.S. PROSECUTION

OIPE JC61 DEC 31 2001 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/972,830	10/05/2001	Michael I. Nerenberg	267/301

CONFIRMATION NO. 3809

FORMALITIES LETTER

OC000000006990578

22249
LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

Date Mailed: 10/29/2001

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 $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $280.
  - **$280** for multiple dependent claim surcharge.
- 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 $ 1150.**

01/18/2002 SSALEEKU 00000034 122475 09972830

01 FC:201 370.00 CH
02 FC:205 65.00 CH

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070814

DATE : August 14, 2007

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction on Patent No.: 6,982,144

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

JEFFREY FREDMAN
PRIMARY EXAMINER

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE: Gary Benzion 7/19/07 acting SPE Art Unit 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NOV 14 2003

Paper No. 16

In re Application of :
Patrick Cheppe *et al* : DECISION ON PETITION
Application No. 09/972,863 :
Filed: October 10, 2001 :
Attorney Docket No. 107800

This is a decision on the petition filed by facsimile transmission on September 24, 2003 by which petitioners request that the Office letter mailed on August 21, 2003 be remailed. No fee is required for this petition, which is considered pursuant to 37 CFR 1.181.

The petition is granted.

The application file has only recently been located and returned to the undersigned. A review of the file shows that the Office letter dated August 21, 2003 was returned by the United States Postal Service, notwithstanding that it is correctly addressed to the correspondence address of record.

Accordingly, this application is being forwarded to the Head Supervisory Applications Examiner in Technology Center 3700 for remailing of the August 21, 2003 Office letter, together with all attachments thereto including references. The period for response set therein will run from the date that the Office letter is remailed.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Oliff & Berridge
P.O. Box 19928
Alexandria, VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Flesher & Kim, LLP
P. O. Box 221200
Chantilly, VA 20153

COPY MAILED

APR 22 2005

OFFICE OF PETITIONS

In re Application of :
Jong Hyun Woo :
Application No. 09/972,876 : ON PETITION
Filed: October 10, 2001 :
Attorney Docket No. P 0269 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A "Notice of Allowance and Issue Fee Due" was mailed to applicant on October 5, 2004, which set a three-month shortened statutory period for reply. Since the issue fee was not timely paid, the application became abandoned on January 6, 2005.

The Office acknowledges receipt of the issue fee, which was submitted with 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JUN 06 2006
OFFICE OF PETITIONS

In re Application of :
Yoshinao Nagashima, et al. :
Application No. 09/972,887 : ON PETITION
Filed: October 10, 2001 :
Attorney Docket No.: 214089US0CONT :

This is a decision on the petition, filed June 6, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 28, 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 1617 for consideration of the Information Disclosure Statement and Request for Continued Examination under 37 CFR 1.114 purportedly filed on June 6, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 3

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON DC 20005--393

COPY MAILED

FEB 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Ashley I. Bush, Rudolph E. Tanzi, Mikhal :
Xilinas and Robert Cherny :
Application No. 09/972,913 :
Filed: October 10, 2001 :
Attorney Docket No. 0609.4540003 :
Title: USE OF CLIOQUINOL FOR THE :
THERAPY OF ALZHEIMER'S DISEASE :

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 CFR §1.47(a)[1], filed October 10, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on October 10, 2001[2]. With the filing of this application, the applicant has further filed the present petition and fee[3]. Accompanying

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor;
(5) a declaration which complies with 37 CFR 1.63.

2 The declaration submitted upon filing contains the signatures of three of the four joint inventors, with inventor Xilinas being the non-signing inventor.

3 The petition states that the petition fee was submitted via check no. 30288. As no check was received with the petition, the petition fee of $130.00 has been charged to petitioner's Deposit Account, as authorized in the petition.

the petition was a declaration by Heidi L. Kraus, an attorney for the purported assignee, a copy of the letter which was sent to the non-signing inventor and his attorney, and a copy of the Federal Express tracking report.

The declarant sets forth that on January 2, 2001, a copy of the application was sent with the declaration to the last known address of the non-signing inventor, and a second copy was sent to his attorney. The Federal Express tracking report indicates that a person by the name of Xilinas signed for the package on January 4, 2001. on January 5, 2001, the non-signing inventor left a voicemail message for the declarant, where he acknowledged receipt of the package. On January 16, 2001, the declarant spoke with the inventor via telephone. The non-signing inventor refused to discuss the declaration, and insisted that the declarant speak with his attorney. On January 30, 2001, the declarant spoke with the attorney, and was informed that he advised the non-signing inventor against signing the declaration.

Rule 47 applicant has met requirements (1), (2), (3), (4), and (5) above.

Regarding requirement (6) above, it is determined that the Rule 47 applicant has failed to submit a declaration which complies with 37 CFR §1.63.

The declaration submitted to the inventor[4] fails to list the residence, citizenship, or post office address of inventor Cherny[5]. Hence, the declaration which the non-signing inventor was presented with fails to meet the requirements of 37 CFR §1.63.

On renewed petition, the petitioner should either provide the signature of the non-signing inventor, or provide a showing that declaration which complies with 37 CFR §1.63 has been submitted to him for his review.

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

4 It is noted that a copy of the declaration which was sent to the non-signing inventor has not been included with the petition. It is assumed that the declaration submitted for his review is identical to that included with the application upon filing.

5 The application, as filed, contains four declarations. One is not signed, and each of the remaining three has been executed by one of the three signing inventors. Of the four declarations, only the copy executed by inventor Cherny contains his residence, citizenship, and post office address. This information appears to have been hand-written by the inventor upon signing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for R 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
www.uspto.gov

Paper No. 8

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON DC 20005-3934

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Ashley I. Bush, Rudolph E. Tanzi, Mikhal Xilinas, and Robert Cherny
Application No. 09/972,913
Filed: October 10, 2001
Attorney Docket No. 0609.4540003
Title: USE OF CLIOQUINOL FOR THE THERAPY OF ALZHEIMER'S DISEASE

DECISION ON PETITION

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.47(a)[1], filed on September 11, 2002[2], and the petition under 37 C.F.R. §1.137(b), filed on September 24, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The petition under 37 C.F.R. §1.137(b), which is properly treated as a petition under 37 C.F.R. §.1.181 to withdraw the holding of abandonment, is **GRANTED**.

The original petition was filed along with the above-identified application on October 10, 2001[3]. This original petition was dismissed via a decision mailed on February 11, 2002, for failure to submit an oath or declaration which compiled with the requirements of 37 C.F.R. §1.63.

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.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(5) a declaration which complies with 37 CFR §1.63.

2 In order to make this reply timely, petitioner has filed a petition for a five-month extension of time.

3 The declaration submitted upon filing contains the signatures of three of the four joint inventors, with inventor Xilinas being the non-signing inventor.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Regarding the petition under 37 C.F.R. §1.181, this petition is granted. On September 16, 2002, the Office mailed a Notice of Abandonment, indicating that the application had gone abandoned for failure to submit a timely reply to the Notice to File Missing Parts, mailed on February 11, 2002[4]. On September 11, 2002, petitioner obtained a five-month extension of time. Accordingly, the renewed petition under 37 C.F.R. §1.47(a) was timely filed. Hence, the Notice of Abandonment is hereby **WITHDRAWN**, as it was sent in error.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

4 The petition fee of $640.00 has been refunded to petitioner's Deposit Account, as authorized in the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Mikhal Xilinas
15 Atalante
145 63 Kisifia, Greece

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Ashley I. Bush, Rudolph E. Tanzi, Mikhal Xilinas, and :
Robert Cherny :
Application No. 09/972,913 : DECISION ON PETITION
Filed: October 10, 2001 :
Attorney Docket No. 0609.4540003 :
Title: USE OF CLIOQUINOL FOR THE THERAPY :
OF ALZHEIMER'S DISEASE :

Dear Mr. Xilinas:

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, 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 Paul Shanoski at (703) 305-0011. 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).

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W., SUITE 600
WASHINGTON DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GO

Paper No. 6

BROWDY AND NEIMARK P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

COPY MAILED

JUN 0 5 2003

OFFICE OF PETITIONS

In re Application of
Han-Chieh Chang et al
Application No. 09/972,953
Filed: October 10, 2001
Attorney Docket No. PENG=4

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 1700.

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

Law Offices of Dr. Melvin Blecher
4329 Van Ness St., NW
Washington DC 20016-5625

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APR 21 2004

OFFICE OF PETITIONS

In re Application of :
Ye & Ray :
Application No. 09/972,956 : ON PETITION
Filed: October 10, 2001 :
Attorney Docket No. 64688/152 :
For: GENE TRANSFER TO RENAL
GLOMERULAR CELLS

This is a decision on the petition under 37 CFR 1.137(a), filed October 29, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to properly reply to the final Office action, mailed April 9, 2003. Petitioners filed an amendment after final and a petition for a three month extension of time and required fee on August 19, 2003. The amendment after final failed to place the above-identified application in *prima facie* condition for allowance, as stated in the October 1, 2003 Advisory Action. The application became abandoned on October 10, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirements (1) and (3).

Regarding (1), the amendment after final filed on October 29, 2003 fails to place this application in *prima facie* condition for allowance. Petitioners must submit a RCE and submission, a continuing application, another amendment after final, or a Notice of Appeal.

Regarding (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the

outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

In the instant case, petitioners have failed to provide adequate evidence that the delay was unavoidable.

Petitioners are reminded that after a final action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) a RCE and submission. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' August 19, 2003 Amendment After Final failed to eliminate all of the Examiner's objections and rejections. The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall 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." See 37 CFR 1.116(a).

Petitioners' failure to appreciate that the filing of a proposed amendment under 37 CFR 1.116 on August 19, 2003 did not relieve petitioners of the burden of timely filing a notice of appeal or other proper response to avoid abandonment of the above-identified application is unfortunate, but it is not unavoidable delay. The abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 USC 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire **while awaiting a notice of allowance or other action**. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66)(emphasis added).

Petitioners are reminded that an Advisory Action does not start a new period for response.. The application became abandoned because petitioners did not submit a proper reply to the April 9, 2003 final Office action. The fact that petitioners' attorney was on a scheduled vacation when the October 1, 2003 Advisory Action arrived at the correspondence address of record did not relieve petitioners' responsibility to properly reply to the April 9, 2003 final Office action. Petitioners attorney's preoccupation with other matters which took precedence over the above-identified

application does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

The petition under 37 CFR 1.137(a) is dismissed.

ALTERNATIVE VENUE

Petitioners should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $ 665.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioner's convenience, a blank copy of PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(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: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/64 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 15 2008

OFFICE OF PETITIONS

In re Patent No. 7,058,676 :
Issue Date: June 6, 2006 :
Application No. 09/972,994 : ON PETITION
Filed: October 10, 2001 :
Attorney Docket Number: 1807.1874 :

This is a decision on the petition, filed February 21, 2008, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the non-received Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish non-receipt of the original Letters patent. Accordingly, the Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

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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JJGJR.: 07-06

Paper No:__

FITZPATRICK
CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of :
Fujii, et al. :
Application No. 09/972,996 :
Filing Date: 10 October, 2001 :
Attorney Docket No.: 862.C2404 :

DECISION

This is a decision on the petition filed on 15 May, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

NOTE:

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

As discussed herein, Petitioner avers non-receipt of an Office action, however, Petitioner's office customer number allows online access to the application. Petitioner could have known of the mailing of the Notice of Allowance/Allowability and Fees Due, and, thus, abandonment in question. Regulatory requirements mandate the filing of a petition seeking relief under 37 C.F.R. §1.181 within two (2) months of the act complained of, to wit: the abandonment which took place by operation of law after midnight 16 February, 2006.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 16 November, 2005, with reply due under a non-extendable deadline on or before 16 February, 2006;

- the application went abandoned after midnight 16 February, 2006;

- the Office mailed the Notice of Abandonment on 14 April, 2006;

- on 15 May, 2006, Petitioner filed the instant petition and averred, *inter alia*, that Petitioner's office did not receive the Notice (a copy is enclosed), and provided documentary support consistent with the guidance set forth in the Commentary at MPEP §711.03(c).

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.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

---

(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]

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172.USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. 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

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[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the

---

[9] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(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 Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

act complained of.

Petitioner appears to have satisfied the requirements described above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **granted**.

The instant application is released to Technology Center 2600 for further processing, to wit: the re-mailing of the Notice of Allowance/Allowability and Fees Due, in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

05514 7590 11/16/2005

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER	
ABEBE, DANIEL DEMELASH	
ART UNIT	**PAPER NUMBER**
2655	

DATE MAILED: 11/16/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,996	10/10/2001	Kenichi Fujii	862.C2404	4792

TITLE OF INVENTION: SPEECH RECOGNITION SYSTEM, SPEECH RECOGNITION APPARATUS, AND SPEECH RECOGNITION METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	02/16/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

05514 7590 11/16/2005

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,996	10/10/2001	Kenichi Fujii	862.C2404	4792

TITLE OF INVENTION: SPEECH RECOGNITION SYSTEM, SPEECH RECOGNITION APPARATUS, AND SPEECH RECOGNITION METHOD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	02/16/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
ABEBE, DANIEL DEMELASH	2655	704-275000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,996	10/10/2001	Kenichi Fujii	862.C2404	4792

05514 7590 11/16/2005

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER	
ABEBE, DANIEL DEMELASH	
ART UNIT	**PAPER NUMBER**
2655	

DATE MAILED: 11/16/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 691 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 691 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTOL-85 (Rev. 07/05) Approved for use through 04/30/2007.

Notice of Allowability	Application No.	Applicant(s)	
	09/972,996	FUJII ET AL.	
	Examiner	Art Unit	
	Daniel D. Abebe	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.

2. ☒ The allowed claim(s) is/are *33-38*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Allowable Subject Matter

Claims 33-36 are allowed.

The following is an examiner's statement of reasons for allowance:

The claims are allowed as a result of the amendment in the claims. more particularly, where the claims now include the step of sending the speech information except for the keyword portion to an external speech recognition as recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel D. Abebe whose telephone number is 571-272-7615. The examiner can normally be reached on monday-friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. 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).

Daniel Abebe Primary Examiner A.U. 2655

November 8, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

#16

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

APR 0 [illegible] 2004

Office of the Director
Group 3600

James C. Wray
Suite 300
1493 Chain Bridge Road
McLean, VA 22101

In re Application of: : DECISION ON PETITION
Paul Paustian et al : UNDER 37 CFR 1.181
SERIAL NO. : 09/973,005 :
FILED : October 10, 2001 :
FOR : RAPID DEPLOYMENT OF TROOPS
AND CARGO

The petition was filed December 5, 2003 under 37 CFR 1.181 for review of the refusal to enter the substitute appeal brief submitted October 30, 2003. Applicants request that the substitute appeal brief be entered.

The petition is dismissed as being moot. An interview was held on March 30, 2004 and, in accordance therewith, the final rejection mailed January 13, 2003 is being withdrawn and a new office action issued.

Petition DISMISSED.

The application is being forwarded to the examiner for withdrawal of the final rejection mailed January 13, 2003 and preparation of a new Office action.

Donald Hajec
Director, Technology Center 3600
(703) 306-4180
Facsimile No. (703) 306-4598

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

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JUN 2 5 2002

OFFICE OF PETITIONS

FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

In re Application of
Hamid
Application No. 09/973,011
Filed: October 10, 2001
Attorney Docket No. 12-70 US

DECISION ON
PETITION

This is a decision on the January 9, 2002 petition requesting that the above-identified application be accepted as having been received in its entirety, including figure 7d, on October 10, 2001.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on October 10, 2001. However, on November 9, 2001, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a "Notice Of Omitted Items in a Nonprovisional Application" (hereinafter "notice") noting that although the application had been granted a filing date, figure 7d was missing. The notice further stated that the filing date would be the date of receipt of the omitted pages of specification unless a petition was filed that successfully showed that the missing item(s) had been included with the application. The notice further stated that if action were taken within two months, then the application would retain its October 10, 2001 filing date and would be processed without the missing pages.

Petitioner responded with the October 10, 2001 filing of this petition. The petition is supported by a copy of the postcard return receipt and includes a copy of the allegedly missing figure. The copy of applicants' postcard receipt indicates receipt of all 12 pages with the application on October 10, 2001.

Accordingly, *this petition is* ***granted***.

The $130.00 petition fee paid for this petition is unnecessary. As per Petitioner's request, a refund will be credited to Petitioner's deposit account (DA 50-1142).

The application is being returned to OPIE for further processing with a filing date of October 10, 2001 using the copy of figure 7d supplied with this petition.

Any questions regarding this decision should be directed to Attorney Scott M. Ledford at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROSS PRODUCTS DIVISION OF ABBOTT LABORATORIES
DEPARTMENT 108140-DS/1
625 CLEVELAND AVENUE
COLUMBUS OH 43215-1724

COPY MAILED

JUN 27 2007

OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Baxter :
Application No. 09/973,105 : ON PETITION
Filed: 10-09-2001 :
Attorney Docket No. 6815.US.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 25, 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 October 26, 2006. The Office mailed a Notice of Abandonment on February 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee; and (3) a statement of unintentional delay.

The Associate Power of Attorney filed with the petition on March 20, 2007, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b) was eliminated). *See* MPEP § 402.02 and Revision of Power of Attorney and Assignment Practice, 69 Fed. Reg. 29865 (May 26, 2004); 1283 Off. Gaz. 148 (June 22, 2004). Although the paper has been placed in the file, the name of the patent practitioner listed on the Associate Power of Attorney has not been made of record. Nevertheless, it is presumed that William J. Winter is acting in his representative capacity, pursuant to 37 CFR 1.34, in filing the present petition.[1]

[1] 37 CFR 1.34 states:

> When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set

This application is being referred to Technology Center AU 1615 for review of the amendment.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

#6
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

APR 28 2003

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OFFICE OF THE DIRECTOR
TC 3600

Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02451-1914

Paper No. 6

In re application of
Erich Russ et al.
Application No. 09/973,121
Filed: October 9, 2001
For: DEVICE FOR THE ROTATABLE COUPLING OF TWO COAXIAL CONNECTION ELEMENTS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 5, 2003 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed March 5, 2003 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866
(703) 605-0586 (facsimile)

KJD/tpl: 4/25/03

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

In re Application of	:	
Mosher, et al.	:	
Application No. 09/973,146	:	DECISION
Filed: 8 October, 2001	:	
Attorney Docket No. G&C 119.10-US-01	:	

This is a decision on the petition filed on 14 February, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the 21 May, 2007, non-final Office action with reply due absent extension of time on or before 21 August, 2007;
- the application went abandoned by operation of law after midnight 21 August, 2007;
- the Office mailed the Notice of Abandonment on 11 January, 2008;

- on 14 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment of timely reply, with a copy of the 17-page submission (including the reply in the form of an amendment) and a copy of the Office Auto-Reply receipt confirmation dated "11/20/2007" and indicating that 17 pages had been received at that time under a Certificate of Facsimile Transmittal—providing a showing consistent with the guidance at the Commentary at MPEP §711.03(c)(I)(A) and (B) (regarding non-receipt and timely filing, respectively).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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]

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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[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] 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.

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5]

And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8] (See: the commentary at MPEP §711.03(c)(I)(A) and (B) , as to non-receipt and timely filing, respectively.)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 11 January, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center AU 2623 for further processing in due course.

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4 See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

5 See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

6 See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

7 Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

8 See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[9] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Paper No. 6

Samuel M. Freund
Los Alamos National Laboratory
LC/BPL, MS A187
Los Alamos NM 87545

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of
Maniloff, McBranch, Heeger & Vacar
Application No.: 09/973,170
Filed: October 4, 2001
Attorney Docket No.: S-97,77452
For: NONDEGENERATE FOUR-WAVE MIXING USING PHOTOINDUCED CHARGE-TRANSFER MATERIALS

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 25, 2002 (certificate of mailing February 8, 2002).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Eric S. Maniloff, cannot be located. Specifically, a declaration of facts of Sharon Ruminer, Office Secretary, details the diligent efforts made to locate Mr. Maniloff. 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.

After this decision is mailed, the above-identified application will be forwarded to Technology Center 1700.

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

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KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Joachim Kohler et al. :
Application No. 09/973,193 : ON PETITION
Filed: October 10, 2001 :
Attorney Docket No. 13333US :

This is a decision on the petition filed August 30, 2005 to withdraw the holding of abandonment under 37 CFR 1.181 or in the alternative, to revive the above identified application, under 37 CFR 1.137(a).

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(a) is **DISMISSED as involving moot issues**.

This application became abandoned February 4, 2005 for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 3, 2004. Accordingly, a Notice of Abandonment was mailed March 14, 2005.

Petitioner claims that the Notice of Allowance mailed November 3, 2004 was never received in that the Notice was mailed to the wrong address. Petitioners provide proof that an associate power of attorney, with a request for an address change, was filed February 26, 2002, prior to the mailing of the Notice of Allowance on November 3, 2004 and argue therefore that the USPTO records were not updated to reflect the address change.

A review of the file confirms that an associate power of attorney and address change was indeed filed on February 26, 2002 and that the USPTO records were not updated. Although other correspondences were mailed from the USPTO to the prior address and timely responded to by the Attorneys of Record, the Notice of Allowance and the Notice of Abandonment was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged. As well, there is no need to treat the petition under 37 CFR 1.137(a).

The Notice of Abandonment is withdrawn and this application is being forwarded to the Publishing Division to be processed into a patent.

The address has been corrected and this matter is being referred to the Publishing Division to be processed into a Patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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March 18, 2004

Marvin J. Spivak
Oblon, Spivak, McClelland,
Maier & Neustadt
1940 Duke St.
Alexandria, Va 22314

In re application of:
Hideaki Fukuzawa, et al
Serial No.: 09/973,235
Filed: October 10, 2001
For: MAGNETORESISTANCE EFFECT ELEMENT, MAGNETIC HEAD, MAGNETIC HEAD ASSEMBLY, MAGNETIC STORAGE SYSTEM

DECISION ON PETITION

This is a decision on the petition received on November 21 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 13, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 15, 2002. The notice of abandonment was mailed on November 10, 2003.

The evidence submitted is sufficient to establish that the petitioners should not have received the Notice to File Missing Parts mailed November 13, 2001. The notice was issued in error.

The petition is hereby Granted.

The office regrets any inconvenience this may have caused the client. The application has been completed for release to Technology Center 1773.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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ROHM AND HAAS COMPANY
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106

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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Eric Gustave Lundquist et al : DECISION ON PETITION
Application No. 09/973,261 : UNDER 37 CFR 1.137(b)
Filed: October 9, 2001 :
Attorney Docket No. DN A0164 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 27, 2005 as required by the Notice of Allowance and Fee(s) Due, mailed June 27, 2005. A Notice of Abandonment was mailed on January 20, 2006.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the $1,400 issue fee and $300 publication fee; the petition fee of $1,500; and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No. _____

Date : August 1, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Craig A. Rosen et al
Application No. :09/973,278
Filed :October 10, 2001

The above-identified application has been assigned Patent No. 6,924,354 and an issue date of August 2, 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 August 2, 2005:

"All reference to Patent No. 6,924,354 to Craig A. Rosen et al of Maryland for SECRETED PROTEIN HHTLF25 appearing in the Official Gazette of August 2, 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

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HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Craig A. Rosen et al :
Application No. 09/973,278 :
Filed: October 10, 2001 :
Attorney Docket No. PZ010P2 :

ON PETITION

This is a decision on the petition, filed July 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1637 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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Paper No. 15

Lawrence J. Crain, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 S. Wacker Drive
Chicago, IL 60606

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of

Chia Mu Shao

Application No. 09/973,285

Filed: October 19, 2001

Attorney Docket No. 1221.65863

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely response to the final Office action mailed August 1, 2003. The final Office action set a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on November 2, 2003. A Notice of Abandonment was mailed on April 16, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office.

The Request for Continued Examination filed July 26, 2005, is noted.

The application file is being forwarded to Technology Center 3700, GAU 3713 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Paper No. 12

Patrick F. Bright
Bright & Lorig, PC
633 W. 5th Street – Suite 3330
Los Angeles, CA 90071

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Iraj Parchamazad :
Application No. 09/973,287 : ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. F99182 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed May 21, 2003. A Notice of Abandonment was mailed on March 30, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The Office also acknowledges receipt of a Declaration and Power of Attorney for Patent Application filed September 22, 2005. The Power of Attorney has been accepted and entered.

The application file is being referred to Technology Center Art Unit 1764, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OXNARD, CA 93031-9100

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OFFICE OF PETITIONS

In re Application of :
Iraj Parchamazad :
Application No. 09/973,287 : DECISION ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. F99182 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the final Office action mailed January 11, 2007. A Notice of Abandonment was mailed on July 25, 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 and $250 fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $165 for a two 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). Since the $165 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

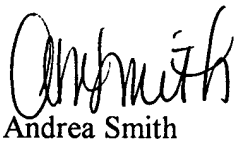
The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address

given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center Art Unit 1764, 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

cc: Patrick Bright
Wagner, Anderson & Bright, LLP
3541 Ocean View Boulevard
Glendale, CA 91208

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WAGNER, ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

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In re Application of :
Iraj Parchamazad :
Application No. 09/973,287 : DECISION ON PETITION
Filed: October 5, 2001 :
Attorney Docket No. F99182 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within the two (2) months period set forth in the decision mailed February 5, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 6, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief with $270 fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The Revocation/Appointment of Power of Attorney or Authorization of Agent filed October 23, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1795 for further processing in accordance with this decision on petition

Brian Brown
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney, 1 page.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/973,287	10/05/2001	Iraj Parchamazad	F99182

CONFIRMATION NO. 6007

35037
WAGNER, ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BLVD
GLENDALE, CA 91208

POA ACCEPTANCE LETTER

OC000000033286564

Date Mailed: 11/24/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/23/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dwilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/973,287	10/05/2001	Iraj Parchamazad	F99182

CONFIRMATION NO. 6007

POWER OF ATTORNEY NOTICE

24982
KENNETH J. HOVET
NORDMAN CORMANY HAIR & COMPTON LLP
P.O. BOX 9100
1000 TOWN CENTER DRIVE
OXNARD, CA 93031-9100

OC000000033286263

Date Mailed: 11/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/23/2008.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/dwilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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AUG 2 7 2004

OFFICE OF PETITIONS

In re Patent No. 6,762,233 :
Issued: July 13, 2004 :
Application No. 09/973,302 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 051583-0254 :

This in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on July 19, 2004 (Certificate of Mailing Date July 14, 2004).

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The current large entity issue fee charge is $1,330.00. On , June 1, 2004, $665.00 was paid. The instant petition encloses a check for the balance due or $665.00. The payment is accepted.

Small entity status will no longer apply.

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

APR 23 2004

OFFICE OF PETITIONS

In re Application of :
McDonnell et al. :
Application No. 09/973,378 : ON PETITION
Filed: 9 October, 2001 :
Atty Docket No. ORT-1510 :

This is a decision on the petition filed on 8 April, 2004, which, in the absence of a fee, is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.[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. The reconsideration request should include a cover letter entitled "Renewed Petition to under 37 CFR 1.137(b)." This is not a final agency action.

This application became abandoned on 15 January, 2002, for failure to submit a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on 14 November, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 17 November, 2003.

The present petition was accompanied by a declaration and authorization to charge the surcharge and petition fee to counsel's deposit account, No. 10-0750. However, on 9 April, 2004, counsel's deposit account contained only $14.00. Therefore, the Office was unable to charge either the petition fee or the late-filing surcharge.

[1] In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

An amount sufficient to cover all fees, services, copies, etc., request must always be on deposit. Charges to accounts with insufficient funds will not be accepted.[2] An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.[3]

In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment.[4] The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[5] As petitioner has not alleged circumstances which would warrant the withdrawal of the holding of abandonment, the petition will be dismissed.

Petitioners should file a renewed petition accompanied by the proper payment.

Further correspondence with respect to this matter should be addressed as follows:

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

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[2] 37 CFR 1.25(a).

[3] 37 CFR 1.25(b).

[4] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

[5] MPEP 711.03(c); see 35 U.S.C. 41(a)(7).

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW 08-04

Paper No. 11

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
McDonnell et al. :
Application No. 09/973,378 : ON PETITION
Filed: 9 October, 2001 :
Atty Docket No. ORT-1510 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1] filed on 8 April, 2004.

The petition is **GRANTED**.

This application became abandoned on 15 January, 2002, for failure to submit a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on 14 November, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 17 November, 2003. A petition was

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

filed under 37 CFR 1.137(b) on 8 April, 2004, but was treated as a feeless petition under 37 CFR 1.181 due to the lack of sufficient funds in counsel's deposit account to charge the petition fee. The petition was dismissed on 23 April, 2004.

The present petition is accompanied by authorization to charge the petition fee and surcharge.

Counsel's deposit account, No. 10-0750, will be charged the petition fee of $1,330.00 and the late oath or declaration or filing fee surcharge of $130.00.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
McDonnell et al. :
Application No. 09/973,378 : ON PETITION
Filed: 9 October, 2001 :
Atty Docket No. ORT-1510 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1] filed on 8 April, 2004.

The petition is **GRANTED**.

This application became abandoned on 15 January, 2002, for failure to submit a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed on 14 November, 2001, which set a two (2) month shortened period for reply. Notice of Abandonment was mailed on 17 November, 2003. A petition was

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(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)).

filed under 37 CFR 1.137(b) on 8 April, 2004, but was treated as a feeless petition under 37 CFR 1.181 due to the lack of sufficient funds in counsel's deposit account to charge the petition fee. The petition was dismissed on 23 April, 2004.

The present petition is accompanied by authorization to charge the petition fee and surcharge.

Counsel's deposit account, No. 10-0750, will be charged the petition fee of $1,330.00 and the late oath or declaration or filing fee surcharge of $130.00.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Osha Liang LLP / Lummus
Two Houston Center
909 Fannin, Suite 3500
Houston, TX 77010

Mail Date: 04/20/2010

Applicant	: Mark Karrs	: DECISION ON REQUEST FOR
Patent Number	: 7572414	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/973,401	: OF WYETH
Filed	: 10/09/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Osha Liang LLP / Lummus
Two Houston Center
909 Fannin, Suite 3500
Houston, TX 77010

Mail Date: 05/17/2010

Applicant : Mark Karrs
Patent Number : 7572414
Issue Date : 08/11/2009
Application No: 09/973,401
Filed : 10/09/2001

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1941** 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** 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 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 deterimation 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

CARL B. MASSEY, JR.
WOMBLE CARLYLE SANDRIDGE & RICE PLLC
POST OFFICE BOX 7037
ATLANTA, GA 30357

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FEB 07 2005

OFFICE OF PETITIONS

In re Application of :
William Scott Caldwell et al :DECISION GRANTING PETITION
Application No. 09/973,411 :UNDER 37 CFR 1.313(c)(3)
Filed: October 9, 2001 :
Attorney Docket No. T103 1300.4 :

This is a decision on the petition, filed February 2, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application under 37 CFR 1.53(b) stated to have been filed on February 1, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This abandoned file is being referred to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Rajan K. Panandiker et al :
Application No. 09/973,440 : DECISION GRANTING PETITION
Filed: October 9, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 8296 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 3, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being forwarded to Technology Center AU 1771.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON, CT 06484-8000

COPY MAILED

MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Katikaneni and Chaclas :
Application No.: 09/973,458 : DECISION ACCORDING
Filed: April 30, 2001 : RULE 47(a) STATUS
Attorney Docket No: F-113 :
For: MAILING SYSTEM HAVING FLEXIBLE PRINTING OF MESSAGES

This is in response to the petition under 37 CFR 1.47(a), filed February 1, 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.

The above-cited application was filed on April 30, 2001, without an executed declaration for inventor Katikaneni. On December 10, 2001, a Notice to File Missing Parts of Nonprovisional was mailed allowing an extendable period for response of two months from the mailing date. The notice indicated that an executed declaration for inventor Katikaneni was required along with a surcharge in the amount of $130.00 for the late filing of the declaration. The instant petition was filed on February 1, 2001, in response to the notice.

Petitioner has shown that inventor Katikaneni has constructively refused to join 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 addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Technology Center 3600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 04-02

Paper No. 7

ZOE ZIAKA-VASILEIADOU
15549 DEARBORN STREET
NORTH HILLS CA 91343

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of	:	
Ziaka-Vasileiadou et al.	:	
Application No. 09/973,459	:	DECISION DISMISSING
Filed: 10 October, 2001	:	PETITION
For: Integrated Processes for	:	
Olefin and Polyolefin Production	:	

This is a decision on the renewed petition filed by facsimile on 12 April, 2002, which is treated as a petition requesting that the above-identified application accorded a filing date of 24 September, 2001, rather than the presently accorded filing date of 10 October, 2001.

The petition is again **dismissed**.

The format and wording of the papers filed are that of an inexperienced applicant. In further prosecution, the services of a registered attorney or agent are recommended. Additionally, the petition is replete with grammatical and idiomatic errors.

Petitioners again assert that the application was deposited in United States Postal Service (USPS) Certified Mail (first-class) on 24 September, 2001. In support, petitioners have supplied an additional copy of a USPS Certified Mail Receipt postmarked 24 September, 2001, as well as a sales receipt from the USPS showing that postage was paid for a mailing to Washington, DC 20231 on 24 September, 2001. Petitioners have also included a copy of their return receipt postcard showing a USPTO stamp bearing the above-identified application number and a date of 10/10/01.

Petitioners argue that the postcard receipt serves as a "certificate of mailing" because petitioners hand-dated the

postcard receipt "09/24/2001" prior to depositing the application with the USPS. Petitioners further state:

> [W]e are asserting that the late delivery of the patent application documents and receipt by the USPTO on the date of Oct. 10, 2002 (*sic*) was unavoidable and unpredictable due to the hold of the US postal service, dictated by the Sept. 11, 2002 (*sic*) events that required close search and examination of the delivered mail by the postal service. Under normal circumstances the above patent application should be delivered to the USPTO within 3-4 business days from its mailing date of Sept. 24, 2001. Because such postal delays affected all incoming mail, the petitions office has to consider that such delay was not the fall (*sic*) of the applicants and to offer the requested relief. The relief is related also with the applicants support of the related priority provisional application # 60/237,202 which was also filed on Oct. 3, 2000.
>
> (emphasis in original)

The arguments have been considered, but are not persuasive. At the outset, it is noted that in the original petition, petitioners requested a filing date of 2 October, 2001, because petitioners were allegedly informed by a postal clerk that the application would be delivered to the USPTO "within about 7 business days" from the date of mailing. Petitioners now request a filing date of 24 September, 2001, the date petitioners allegedly mailed the application to the USPTO. As described *infra*, petitioners are not entitled to a filing date of either 24 September or 2 October, 2001, but a filing date of 10 October, 2001, the date the application was received in the USPTO.

The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no application papers were received on 24 September, 2001. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes that the application was (or should have been) received in the Office on 24 September, 2001, is not more persuasive than the date the papers are shown to have been received in the official file.

Petitioners' assertion that the postcard receipt which petitioners hand-dated 09/24/01 prior to depositing the application in first-class mail serves as a certificate of mailing entitling the application to a filing date thereof represents a fundamental misunderstanding of the certificate of mailing procedure and the return receipt procedure specified by MPEP 503. Petitioners filed the papers received on 10 October, 2001, for the purpose of obtaining an application filing date. 37 CFR 1.8(a)(2)(I)(A) explicitly states that Certificate of Mailing procedures do not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date.[1] The actual date of receipt is used for all other purposes.[2] As petitioners' application was received on 10 October, 2001, that is the filing date to which the application is entitled.

Additionally, petitioners should note that the return receipt postcard serves as *prima facie* evidence of *receipt* in the USPTO of all the items listed thereon *on the date stamped thereon by the USPTO,* **not** the date petitioners placed on the card before mailing the application to the USPTO. Petitioners' postcard receipt shows a USPTO Office date stamp of 10 October, 2001. Therefore, the postcard receipt is *prima facie* evidence that the application was received on 10 October, 2001. The postcard clearly does not entitle petitioners to a filing date of 24 September, 2001, which is, at best, evidence of the date which petitioners intended to deposit the application with the USPS.

Turning to petitioners' argument that postal delays and delays within the USPTO were responsible for petitioners' receiving a later-than-desired filing date, petitioners are advised that they could have avoided the predicament that has now occurred by filing the application via USPS Express Mail Post Office to Addressee service in accordance with 37 CFR 1.10. Any correspondence received by the USPTO that was delivered by the "Express Mail Post Office to Addressee" service of the USPS will be considered filed in the Office on the date of deposit with the

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[1]Assuming, *arguendo*, certificate of mailing procedures had been available for the filing of these papers, the papers filed on 10 October, 2001, would not be entitled to the benefit of the certificate of mailing because petitioners did not follow the certificate of mailing procedures outlined at 37 CFR 1.8(a).

[2]37 CFR 1.8(a).

USPS. However, since the present application was not filed by Express Mail, the provisions of 37 CFR 1.10 are not available. In choosing not to send the application papers by Express Mail Post Office to Addressee Service, petitioners assumed the risk that the application would not be accorded the desired filing date because of delays in the delivery of mail or receipt in the USPTO. Petitioners simply have no evidence that the application is entitled to a filing date earlier that 10 October, 2001.

In summary, petitioners have not shown by a preponderance of the evidence that the application papers were received on 24 September, 2001. The petition is therefore dismissed.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 10 October, 2001, using the application papers filed on that date.

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
www.uspto.gov
DIW 03-02

Paper No. 5

ZOE ZIAKA-VASILEIADOU
15549 DEARBORN STREET
NORTH HILLS CA 91343

COPY MAILED

APR 0 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Ziaka-Vasileiadou et al.	:	
Application No. 09/973,459	:	DECISION DISMISSING
Filed: 10 October, 2001	:	PETITION
For: Integrated Processes for	:	
Olefin and Polyolefin Production	:	

This is a decision on the petition filed by facsimile on 30 January, 2002, which is treated as a petition requesting that the above-identified application accorded a filing date of 2 October, 2001, rather than the presently accorded filing date of 10 October, 2001.

The petition is **dismissed**.

Petitioners assert that the application was deposited in United States Postal Service (USPS) Certified Mail (first-class) on 24 September, 2001. In support, petitioners have supplied a copy of a USPS Certified Mail Receipt postmarked 24 September, 2001, as well as a sales receipt from the USPS showing that postage was paid for a mailing to Washington, DC 20231 on 24 September, 2001. Petitioners request that the application be accorded a filing date of 2 October, 2001, on the basis that (a) a filing date of 2 October, 2001, is required for petitioners to claim priority to provisional Application No. 60237,202, filed on 3 October, 2000, and (b) petitioners "were told by the Postal Service clerk that our envelope will be delivered in the PTO destination within about 7 business days" from the date of mailing.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that no application papers were received on 2 October, 2001. An applicant alleging

that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes that the application was (or should have been) received in the Office on 2 October, 2001, is not more persuasive than the date the papers are shown to have been received in the official file.

At best, the record shows that applicants intended to file the papers in question in the USPTO by first-class mail on or before 2 October, 2001, but the evidence, unfortunately, does not show that the USPTO received the application on 2 October, 2001. Petitioners should also note that while there is no provision in the rules of patent practice permitting the Office to accord a filing date to application papers based on the date the papers were deposited in USPS Certified Mail service, the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, due to the absence in the record of a postcard receipt itemized with respect to the patent-related papers that bears a USPTO date stamp of 2 October, 2001, showing that the original application papers were received at the USPTO on the date alleged in the petition, the date of receipt must reasonably remain 10 October, 2001, the date that the record adequately shows that these papers were first received at the USPTO.

In summary, as 37 CFR 1.6 states that correspondence received in the USPTO is stamped with the date of receipt, applicants assumed the risk, in mailing the application by first-class mail, that if a delay occurred in the delivery of mail by the U.S. Postal Service, the application could not be accorded the desired filing date.

---

[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

Had petitioners mailed the application papers by USPS Express Mail Post Office To Addressee service of the USPS, petitioners could have sought relief from their predicament under the provisions of 37 CFR 1.10(e), by *promptly* providing a copy of the patent-related documents, having affixed thereon the Express Mail label number, as well as a copy of the Express Mail mailing label showing a USPS "date-in" receipt date, and would have obtained as a filing date for any non-received correspondence the "date-in" given by the USPS on the Express Mail mailing label.

Additionally, with regard to the fee deficiency of $15.00 and surcharge of $65.00, the basic filing fee for a small entity was $370.00 for applications filed on or after 1 October, 2001. As petitioners' application was received after 1 October, 2001, the $355.00 basic filing fee submitted with the application papers was insufficient. Receipt of the fee deficiency and surcharge of $80.00 on 25 January, 2002, is hereby acknowledged.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 10 October, 2001, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SAVVAS VASILEIADOU
15549 DEARBORN STREET
NORTH HILLS, CA 91343

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FEB 16 2005

OFFICE OF PETITIONS

In re Application of :
Zoe Ziaka-Vasileiadou et al :
Application No. 09/973,459 : DECISION ON PETITION
Filed: October 10, 2001 :
For: INTEGRATED PROCESSES FOR OLEFIN :
AND POLYOLEFIN PRODUCTION

This is in reply to the communication filed May 6, 2004, which is being treated as a petition under 37 CFR 1.182 requesting that the order of the names of the inventors be changed.

The petition is dismissed.

The order of the names of joint inventors is taken from the order in which the typewritten names appear in the original oath or declaration. Therefore, care should be taken in selecting the preferred order of the typwritten names of the joint inventors, before filing, as requests for subsequent shifting of the names would entail change to numerous records in the Office. Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made **except when a petition under 37 CFR 1.182 is granted**. Further, the petition under 37 CFR 1.182 must be signed by either the attorney or agent of record or all the applicants. *See* MPEP 605.04(f). Additionally, a petition under 37 CFR 1.182 requires a petition fee as set forth in 37 CFR 1.17(f).

Therefore, in the instant case, the requested relief must have been made by way of a petition under 37 CFR 1.182, accompanied by the required fee at the time of submission thereof. As the instant request was not captioned as a petition under 37 CFR 1.182 and lacked the required fee therefor, the change in the order of inventorship cannot be made.[1] Further, as the issue fee

[1] Because the instant request was not properly captioned as a petition under 37 CFR 1.182, it did not come to the attention of the deciding official's office until recently.

has now been paid, the printing of the patent has progressed to the point where it is now impermissible to make any changes in the order of inventorship and, therefore, any future petition submitted under 37 CFR 1.182 (which now requires a $400 fee therefor) to change the order of inventorship would have to be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MARK A. CHARLES
THE PROCTOR & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER – BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OHIO 45224

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SEP 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Eric Tcheou :
Application No. 09/973,518 : DECISION ON PETITION
Filed: October 9, 2001 : 37 CFR 1.137(b)
Attorney Docket No. CM2454 :

This is a decision on the petition under 37 CFR §1.137(b), filed July 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the three month shortened statutory period set in the non-final Office Action mailed July 1, 2004. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is October 2, 2004.

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 petition fee of $1500.00 (for a large entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office Action mailed July 1, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center AU 1751 for appropriate action on the concurrently filed amendment.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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SEP 0 5 2007

OFFICE OF PETITIONS

In re Application of
W. Monty Reichert et al.
Application No. 09/973,557
Filed: October 10, 2001
Attorney Docket No. 2455.3US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed July 19, 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 Allen C. Turner on behalf of all attorneys associated with customer number 24247. All attorneys/agents associated with customer number 24247 have been withdrawn.

A non-final rejection was mailed on May 2, 2007. Failure to timely respond will result in the abandonment of this application.

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. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision is being mailed to the address noted on the request for withdrawal as attorney. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: W. Monty Reichert
1500 Edgevale Road
Durham, NC 27701

cc: Needle & Rosenberg
999 Peachtree Street
Suite 1000
Atlanta, GA 30309

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Paper No.

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

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JUN 25 2008

OFFICE OF PETITIONS

In re Application of :
Reichert et al. :
Application No. 09/973,557 : DECISION ON
Filed: October 10, 2001 : PETITION
Atty Docket No. 21101.0111U2 :

This is a decision on the PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW A HOLDING OF ABANDONMENT-NO FEE REQUIRED filed May 23, 2008.

The above-identified application became abandoned for failure to file a reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) filed October 29, 2007. This Office action set a one-month period for reply, with extensions of time obtainable under §1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned on November 30, 2007. The instant petition precedes the mailing of a courtesy Notice of Abandonment. Applicants state that they became aware of the abandonment through a telephone call from the examiner.

In response, applicants filed the instant petition, asserting that the Notice of Non-Compliant Amendment was never received at the correspondence address of record. Applicants noted that a power of attorney was filed on September 24, 2007, and made of record prior to the mailing of the Notice. The practitioner states that he has reviewed the file jacket and 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.

A review of the application file reveals no irregularities in the mailing of the Notice of Non-Compliant Amendment mailed October 29, 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 holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1797 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the Notice of Non-Compliant

Amendment mailed October 29, 2007 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 06-02

Paper No. 4

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQ.
ST. LOUIS MO 63102

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JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:
Johnson et al.	:
Application No. 09/973,560	: DECISION NOTING JOINDER OF
Filed: 9 October, 2001	: INVENTOR AND PETITION UNDER
Attorney Docket No. RD-28,600	: 37 CFR 1.47(a) MOOT

Papers filed on 10 May, 2002, subsequent to the filing of a Petition Under 37 CFR 1.47(a), on 9 April, 2002, included a Declaration signed by the previously non-signing inventor, Maureen L. Chase, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to Office of Initial Patent Examination for further processing.

Since joinder occurred prior to consideration of the petition under 37 CFR 1.47(a), the petition fee of $130.00 is unnecessary. The petition fee has not been charged.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

RONALD CRAIG FISH
A LAW CORPORATION
POST OFFICE BOX 2258
MORGAN HILL, CA 95038

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FEB 27 2002

OFFICE OF PETITIONS

In re Application of :
Jari Satomaa et al :
Application No. 09/973,561 : NOTICE
Filed: October 8, 2001 :
Attorney Docket No. BER-025 :

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

NIXON & VANDERHYE, PC
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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MAR 12 2003

OFFICE OF PETITIONS

In re Application of :
Haralambos Mantzaridis, et al. :
Application No. 09/973,568 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 2425-18 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 21, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 22, 2002.

The Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3700, Art Unit 3736 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
P.O. Box 1450
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SEP 26 2007

OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of :
Yaniv Gvily :
Application No. 09/973,572 : DECISION ON PETITION
Filed: October 9, 2001 : TO WITHDRAW
Attorney Docket No. 2000P00021US01 : 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 8, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kurt Maschoff**
Buckley, Maschoff & Talwalkar
50 Locust Avenue
New Canaan, CT 06840

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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APR 05 2002

OFFICE OF PETITIONS

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
Waring et al.
Application No. 09/973,574
Filed: October 9, 2001
Attorney Docket No. A3382-007220.0135

: DECISION GRANTING
: PETITION

This is a decision on the petition filed January 3, 2002 (certificate of mailing date December 3, 2001) entitled, "PETITION TO ACCORD FILING DATE", requesting that the above-identified application be accorded a filing date of October 9, 2001 rather than the presently accorded filing date of October 5, 2001. The petition will be treated under 37 CFR 1.10(d).

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 October 9, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL866934929US showing a "date-in" of October 5, 2001 **and** a USPS date stamped postmark of October 9, 2001. The same Express Mail label number is found on the original application papers. In addition, petitioners have submitted a copy of Baker & Botts Express Mail log for October 9, 2001 showing that an Express Mail package bearing the Express Mail label no. EL866934929US was mailed.

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 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 s 10.1(r) of this chapter.

A grantable petition under 37 CFR 1.10(d) must include "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." In addition, the showing "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."

The petition filed January 3, 2002, is accompanied by the corroborating evidence required by the rule.[1] Accordingly, the petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to October 9, 2001.

Thereafter, the application will be forwarded to Technology Center Art Unit 1762 for examination in due course.

Any inquiries related to this decision 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

[1] For future reference with respect to Rule 1.10(d) petitions, the individual who created the particular mail log entry should provide a statement explaining his/her role in creating the entry.

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

Baker and Botts
30 Rockefeller Plaza
New York, NY 10112

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MAR 0 7 2003

OFFICE OF PETITIONS

In re Application of :
Michael Waring, et al. :
Application No. 09/973,574 : DECISION GRANTING PETITION
Filed: October 5, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. A33882-007220.0135 :

This is a decision on the petition filed January 31, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on September 19, 2002. However, the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with the 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

Telephone inquiries concerning this decision should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Office of Initial Patent Examination for pre-examination processing and for mailing a corrected filing receipt, which sets forth the projected publication date.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD CT 06905

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APR 0 8 2002

OFFICE OF PETITIONS

In re Application of:
Jay S. Walker, James A. Jorasch,
Thomas M. Spiraco and
Michael D. Downs
Application No. 09/973,581
Filed: October 9, 2001
Title of Invention: METHOD AND APPARATUS FOR ENTERTAINING CALLERS IN A QUEUE

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed January 25, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Thomas M. Spiraco, refuses to sign the declaration after being presented with the above-identified application and declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center AU 2642 for processing in due course.

Telephone inquiries regarding this decision 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

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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KEATING & BENNETT, LLP
10400 EATON PLACE
SUITE 312
FAIRFAX, VA 22030

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AUG 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Jun Tabota :
Application No. 09/973,600 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. P/1071-1493 :

This is a decision on the petition to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(c)(2), filed January 26, 2004. The petition was recently referred to the Office of Petitions for consideration.

The petition is GRANTED.

Petitioner requested that the application be withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

In reviewing the record of this application, it is noted that, although the petition to withdraw from issue had not been acted upon by an appropriate official of the U.S. Patent and Trademark Office (PTO), the PTO nevertheless processed the RCE and issued a new Notice of Allowance on April 28, 2004. It is also noted that in response thereto. Consequently, this petition to withdraw from issue is being treated as having been granted prior to the mailing, on April 28, 2004, of the second Notice of Allowability and Notice of Allowance and Issue Fee Due.

The application is being forwarded to Publishing Division for further processing of the 85(b) and the request filed July 27, 2004 to reapply the previously paid issue fee towards payment of the issue fee due on the RCE filed January 26, 2004.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 9

Dominik J. Schmidt
P.O. Box 20541
Standford, CA 94309

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MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Masoud Azmoodeh :
Application No. 09/973,608 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 22, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 22, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $650 for the petition to revive fee, and an amendment. However, effective October 1, 2003, the small entity petition to revive fee was increased to $665. Therefore, the deficiency of $15 has been charged to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to

the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2816, for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: 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

DAVID F. MARTINEZ
ATSER
1150 RICHCREST DRIVE
HOUSTON TX 77060

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
David Frederick Martinez :
Application No. 09/973,616 : DECISION GRANTING PETITION
Filed: October 9, 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 April 13, 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of July 9, 2004, 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 2612.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
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

Paper No. 11

Dominik J. Schmidt
P.O. Box 20541
Standford, CA 94309

COPY MAILED

MAY 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dominik J. Schmidt :
Application No. 09/973,621 :
Filed: October 9, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 17, 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 17, 2003.

In response to the non-final Office action, petitioner submitted with the instant petition $650 for the petition to revive fee, and an amendment. However, effective October 1, 2003, the small entity petition to revive fee was increased to $665. Therefore, the deficiency of $15 has been charged to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to

the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 2831, for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Bao Tran
Tran & Associates
6768 Meadow Vista Court
San Jose, CA 95135

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www.uspto.gov

John D. Taylor
Steve K. Taylor
Taylor Corp: Pre-Paid Cash Cards Unlimited
2204 Stephens St.
Vernon TX 76384

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AUG 27 2007

OFFICE OF PETITIONS

In re Application of :
Taylor, et al. : DECISION ON PETITION
Application No. 09/973,626 :
Filed: January 10, 2002 :
For: TAYLOR CORP.PRE-PAID CASH :
CARDS UNLIMITED :

The above-identified application has been referred to the Office of Petitions for consideration of the paper received July 5, 2007, concerning revival of the application. This matter is being treated as a petition to revive pursuant to 37 CFR 1.137.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is not a final agency decision.

This application became abandoned November 22, 2003 for failure to timely reply to the Office communication mailed October 21, 2003. The Office communication set a one month shortened statutory period of time for reply. No petition for extension of time was timely submitted. Notice of Abandonment was mailed August 9, 2005.

Prior to consideration on the merits, the required petition fee must accompany any petition filed pursuant to 37 CFR 1.137. The petition fee required under 37 CFR 1.137(b) for a small entity is currently $750.00. The petition fee required under 37 CFR 1.137(a) for a small entity is currently $250.00.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing

the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Any renewed petition should properly set forth the relief sought. Enclosed please find forms for petitioners' consideration in this regard.

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) 273-3205

By hand:
U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ Signature

_____ Date

_____ Typed or printed name

_____ Registration Number, if applicable

_____ Address

_____ Telephone Number

_____ Address

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ Date

_____ Signature

_____ Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/61 (04-07)
Approved for use through 09/30/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:
(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). 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 8 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: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosure ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

PTO/SB/61 (04-07)
Approved for use through 09/30/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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John D. Taylor
Steve K. Taylor
Taylor Corp: Pre-Paid Cash Cards Unlimited
2204 Stephens St.
Vernon TX 76384

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DEC 14 2007
OFFICE OF PETITIONS

In re Application of :
Taylor, et al. : DECISION ON PETITION
Application No. 09/973,626 :
For: January 10, 2002 :
For: TAYLOR CORP.PRE-PAID CASH :
CARDS UNLIMITED :

This is a decision on the petition renewed under 37 CFR 1.137(a), September 19, 2007, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 decision.

This application became abandoned May 17, 2003 for failure to timely submit a proper reply to the non-final Office mailed January 16, 2003. A one month extension of time was timely procured. Notice of Abandonment was mailed August 9, 2005. A letter concerning the abandonment was filed September 1, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition fails to satisfy requirement (3) set forth above.

Petitioners have failed to present a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The Office may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); *In re Mattullath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners attribute the failure to timely submit a proper reply to the non-final Office communication to medical illness, miscommunication with between applicants and the examiner of record, as well as misunderstanding of patent law, rules, and procedure.

Petitioners have failed to establish that the entire delay in timely submission of a proper reply to the non-final Office action was unavoidable.

To the extent petitioners attribute the delay to medical illness, it is noted that no corroborating documentation has been submitted in this regard. Furthermore, the medical illness is attributed to John David Taylor. Petitioners have failed to establish that the other joint inventor was unavoidably delayed in timely submitting a proper reply to the non-final Office action.

To the extent that petitioners attribute the delay to miscommunication between applicants and the examiner of record, petitioners are advised that applicants' reliance upon oral advice from USPTO employees is not unavoidable with the meaning of 37 CFR 1.137(a). *See, In re Sivertz*, 227 USPQ 255 at 256 (Comm'r Pat. 1985).

To the extent that petitioners attribute the delay to misunderstanding of patent law, rules, and procedure, petitioners are advised that delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. *See, Haines v. Quigg*, 673 F. Supp. 314 at 317, 5 USPQ2d at 1132; *Vincent v. Mossinghoff*, 230 USPQ 621, 624 (D.D.C. 1985); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Any renewed petition must establish that the entire period of time from the time that a reply to the non-final Office action was due until the filing of a grantable petition was unavoidable.

ALTERNATE VENUE

Petitioners are strongly urged to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A form for this purpose was previously provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window Mail Stop Petition Randolph Building Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure

SAMPLE FORMAT FOR REVISED AMENDMENT PRACTICE (Rev. 6/03)

Appl. No.	:	XX/YYY,YYY	Confirmation No. WXYZ
Applicant	:	James Q. Inventor	
Filed	:	April 19, 2003	
TC/A.U.	:	1744	
Examiner	:	John Doe	
Docket No.	:	12345/JAS/R758	
Customer No.	:	88888	

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

AMENDMENT

Sir:

In response to the Office action of October 16, 2003, please amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims which begins on page 3 of this paper.

Amendments to the Drawings begin on page 4 of this paper and include both an attached replacement sheet and an annotated sheet showing changes.

Remarks/Arguments begin on page 5 of this paper.

An **Appendix** including amended drawing figures is attached following page 5 of this paper.

Amendments to the Specification:

Please replace paragraph [0021] with the following amended paragraph:

[0021] In the construction of the bucket of this invention, various materials have been selected [[and]] which offer a number of diverse properties [[,]] and allow for varied functions of the article. For caustic solutions, the bucket can be made of a durable ~~polymer~~ plastic material. Where an aesthetic appeal is desired, the bucket can be any [[of]] one of many attractive colors. The following ~~listing~~ list of properties serves to define possible uses for the buckets.

Please replace paragraph [0045] with the following amended paragraph:

[0045] Figure 1 displays a bucket of the invention. As can be seen from the drawing, ~~the~~ a handle is attached to the upper lip of the structure and connected at points diametrically opposite each other on the circumference.

Please add the following new paragraph after paragraph [0075]:

[0075.1] An optional feature of the articles of the invention is the addition of a tetrafluoroethylene coating to the bucket to provide protection from any contents which might be caustic. The coating can be provided to the surface during the manufacturing process or can be added in a later step.

Please delete the paragraph beginning at page 2, line 4, which starts with "Under normal circumstances"

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-5 (canceled)

Claim 6 (previously presented): A bucket with a handle.

Claim 7 (withdrawn): A handle comprising an elongated wire.

Claim 8 (withdrawn): The handle of claim 7 further comprising a plastic grip.

Claim 9 (currently amended): A bucket with a ~~green~~ blue handle.

Claim 10 (original): The bucket of claim 9 wherein the handle is made of wood.

Claim 11 (canceled)

Claim 12 (not entered)

Claim 13 (new): A bucket with plastic sides and bottom.

Amendments to the Drawings:

The attached sheet of drawings includes changes to Fig. 2. This sheet, which includes Fig. 1-2, replaces the original sheet including Fig. 1-2. In Figure 2, previously omitted element 13 has been added.

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

In the specification, the paragraphs [0021] and [0045] have been amended to correct minor editorial problems. The new paragraph [0075.1] added after paragraph [0075] discusses in general terms the features taken from Example 4.

In amended Figure 2, the previously omitted element numeral 13 has been added.

Claims 6-10 and 12-13 remain in this application. Claims 1-5 and 11 have been canceled. Claims 7 and 8 have been withdrawn.

The examiner has acknowledged that claims 6 and 9-10 are directed to allowable subject matter. Claim 7-8 have been withdrawn as the result of an earlier restriction requirement. Claim 13 adds an additional feature from Example 2 in the specification.

In view of the examiner's earlier restriction requirement, applicant retains the right to present claims 7-8 in a divisional application .....
.....
.....

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

SMITH, JONES & BROWN

By_____
Martin J. Gallagher
Reg. No. 99,999
Tel.: (101) 555-2345

Attachments

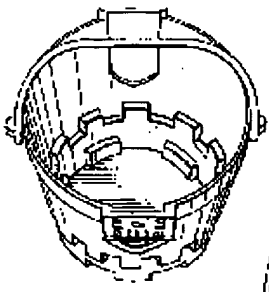

FIG. 1

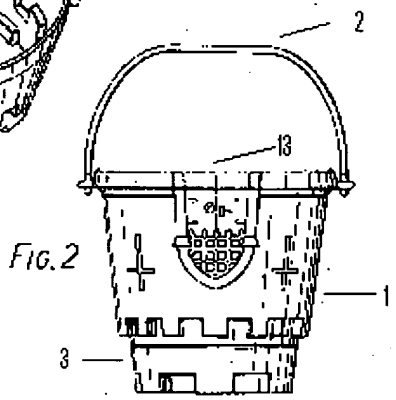

FIG. 2

Annotated Sheet Showing Changes

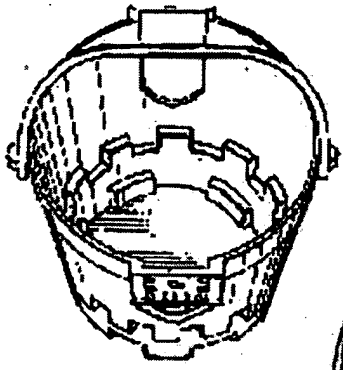

FIG. 1

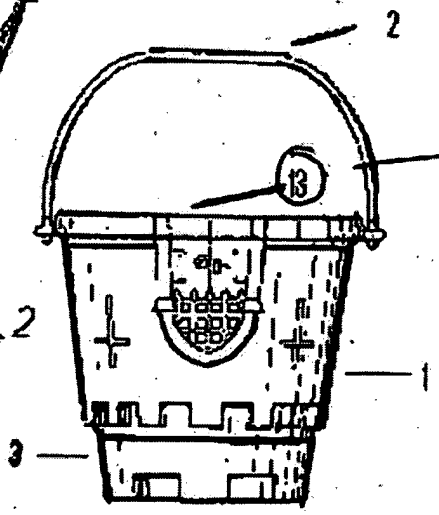

FIG. 2

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Alexandria, VA 22313-1450
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John D. Taylor
Steve K. Taylor
Taylor Corp: Pre-Paid Cash Cards Unlimited
2204 Stephens St.
Vernon TX 76384

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Taylor, et al. :
Application No. 09/973,626 : ON PETITION
Filed: January 10, 2002 :
For: TAYLOR CORP.PRE-PAID CASH :
CARDS UNLIMITED

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

In accordance with 37 CFR 1.33(b), "[a]mendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by: (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter."

The instant petition has not been executed by all inventors named in the application. Accordingly, it has not been reviewed on the merits.

Any renewed petition must be properly executed by all inventors.

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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Taylor Corp: Pre-Paid Cash Cards Unlimited
2204 Stephens St.
Vernon TX 76384

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JUN 20 2008

In re Application of
Taylor, et al.
Application No. 09/973,626
For: January 10, 2002
For: TAYLOR CORP.PRE-PAID CASH CARDS UNLIMITED

: DECISION ON PETITION

This is a decision on the petition renewed under 37 CFR 1.137(b), June 2, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned November 22, 2003 for failure to timely submit a proper reply to the Office communication mailed October 21, 2003. The Office communication set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed August 9, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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 Director may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been carefully reviewed and found to satisfy the requirements of 37 CFR 1.137 in that petition has provided a reply to the Office communication; the required petition fee; and a proper statement of unintentional delay.

This application is being directed to Technology Center 2800 for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

Barlow, Josephs & Holmes, Ltd.
101 Dyer Street
5th Floor
Providence, RI 02903

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DEC 12 2002

OFFICE OF PETITIONS

In re Application of :
Joseph E. Devlin :
Application No. 09/973,627 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. P00737-US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 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 November 13, 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 14, 2002.

The statement claiming small entity status in accordance with 37 CFR 1.27 embodied in the petition under 1.137(b) has been made of record and small entity status has been accorded.

The Revocation and Power of Attorney and Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 9

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 2 7 2004

OFFICE OF PETITIONS

In re Application of :
Robert B. Steffen, et al. :
Application No. 09/973,645 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. VTN 561 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed November 8, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 9, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN P. WAPPEL
BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690

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JAN 1 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,807,785 :
Issue Date: October 26, 2004 :
Application No. 09/973,651 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 0095-1026.1 :

This is a decision on the paper filed October 8, 2004, which is being treated as a petition under 37 CFR 1.182, to add attorney names to the front page of the Letters Patent and for issuance of a Certificate of Correction.

The petition is **granted.**

This matter is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may 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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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

Sofer & Haroun
Suite 1921
342 Madison Avenue
New York, NY 10173

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NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Ovadia :
Application No. 09/973,668 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 618-014 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 9, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 10, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Sofer and Haroun
317 Madison Avenue, Suite 910
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 5

FOLEY HOAG, LLP
Patent Group, World Trade Center West
155 Seaport Blvd.
Boston, MA 02110

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DEC 22 2003

Technology Center 2100

In re Application of
Scott S. LAWTON
Application No. 09/973,678
Filed: October 5, 2001
For: METHOD AND SYSTEM FOR COMBINING USER-SUPPLIED SORT INFORMATION WITH SECONDARY SORT INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 11, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: Scott Lawton
Catchmaker
24 Colonial Drive
Chelmsford, MA 01824

RD

UNITED STATES 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. 032006

TEJPAL S. HANSRA
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

MAR 24 2006

In re Application of:
SCHRECK et al.
Serial No.: 09/973,791
Filed: October 9, 2001
Attorney Docket No.: 3123-384

PETITION TO WITHDRAW FINALITY
UNDER MPEP § 706.07(c)

This is a decision on the petition filed SEPTEMBER 7, 2004 to withdraw the finality of the Office Action dated March 31, 2004.

The petition is DISMISSED.

In view of the Notice of Allowance issued February 6, 2006 , this petition is deemed moot and therefore dismissed.

The application will be forwarded to the Office of Patent Publication.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Connectors

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Sept. 17, 2008

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/973824 Patent No.: 7215753

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved In Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

Olive & Olive, P.A.
P.O. Box 2049
Durham NC 27702

COPY MAILED

MAR - 6 2002

OFFICE OF PETITIONS

In re Application of :
Benz, et al. :
Application No. 09/973,907 :
Filed: October 9, 2001 :
Attorney Docket No. ITTD5003ECJP :

DECISION GRANTING PETITION

This is a decision on the petition filed December 6, 2001, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of October 9, 2001, rather than the presently accorded filing date of October 10, 2001.

Petitioner alleges that the application was deposited in a Express Mail depository in Durham, North Carolina on October 9, 2001, prior to the last scheduled pick-up time of 5:30 p.m, but, on October 9, 2001, the United States Post Office (USPS) made the last pick-up at the depository in question prior to the scheduled time. Petitioner argues that the erroneous early pick-up as committed by the USPS resulted in a the application not being picked up until October 10, 2001, and being accorded an erroneous date-in of October 10, 2001. In support, the petition is accompanied by: 1) the declaration of Mr. Richard Owen, Office Administrator, attesting to the time Ms. Maggie Blackman, who deposited the application, left petitioner's office to deposit the application with the Express Mail service; 2) the declaration of Ms. Shelia Alexander, Paralegal, attesting that the last scheduled pick-up time of the Express Mail depository in question is 5:30 p.m. and attesting to the statement of a USPS representative made to her indicating that the last pick-up at the subject depository on October 9, 2001, occurred at 5:11 p.m., and 3) the declaration of Ms. Maggie Blackman, Paralegal, attesting to the circumstances surrounding her delivery of the application to the Express Mail depository.

Among other requirements that petitioner has satisfactorily met, 37 CFR 1.10(d)(3) requires that "the petition include a showing, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office Addressee" service prior to the last scheduled pick-up for that day." The evidence is convincing that petitioner did, in fact, deposit the application in the Express Mail depository prior to the last scheduled pick-up time on October 9, 2001, but that the last pick-up for October 9, 2001, was made prior to the scheduled time resulting in the application receiving a date-in of October 10, 2001.

In view of the above, the petition is granted. A corrected filing receipt is enclosed showing the filing date for the application as October 9, 2001.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 9, 2001.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

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MAR 2 8 2001

OFFICE OF PETITIONS
A/C PATENTS

J1040 U.S. PTO
09/973951
10/11/01

Burns Doane Swecker & Mathis
PO Box 1404
Alexandria, VA 22313-1404

In re Application of
Thomas J. Whalen et al.
Application No. 09/574,379
Filed: May 19, 2000
For: Novel High Viscosity Embolizing Compositions

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed February 27, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to Office of Initial Patent Examination for preexamination processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

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

Mr. Chinh Tran
21741 Alvarez
Mission Viejo, CA 92691

COPY MAILED

MAR 2 8 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Thomas J. Whalen, Chinh N. Tran, Noah M. Roth, and Richard J. Greff
Aplication No. 09/574,379
Filed: May 19, 2000
For: Novel High Viscosity Embolizing Compositions

Dear Mr. Tran:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position or 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Burns Doane Swecker & Mathis
Post Office Box 1404
Alexandria, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

Burns Doane Swecker & Mathis
PO Box 1404
Alexandria, VA 22313-1404

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MAR 2 8 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Thomas J. Whalen et al.
Application No. 09/574,379
Filed: May 19, 2000
For: Novel High Viscosity Embolizing Compositions

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed February 27, 2001.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After the mailing of this decision, the file will be forwarded to Office of Initial Patent Examination for preexamination processing.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

EXHIBIT 2

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Mr. Chinh Tran
21741 Alvarez
Mission Viejo, CA 92691

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MAR 28 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Thomas J. Whalen, Chinh N. Tran, Noah M. Roth, and Richard J. Greff
Aplication No. 09/574,379
Filed: May 19, 2000
For: Novel High Viscosity Embolizing Compositions

Dear Mr. Tran:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(a), Rules Practice in Patent Cases. Should a patent be granted on the application you will designated therein as a joint inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any patent thereof (at a prepaid cost per 37 CFR 1.19) or make your position or 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, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Latrice Bond at (703) 308-6911. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-6911. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Burns Doane Swecker & Mathis
Post Office Box 1404
Alexandria, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

Robert E. Krebs
Burns, Doane, Swecker and Mathis, LLP
P. O. Box 1404
Alexandria, VA 22313-1404

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MAR 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Thomas J. Whalen, et al. :
Application No. 09/973,951 : DECISION ACCORDING STATUS
Filed: October 11, 2001 : UNDER 37 CFR 1.47(a)
For: NOVEL HIGH VISCOSITY EMBOLIZING :
COMPOSITIONS

This is in response to the copy of the petition under 37 CFR 1.47(a), submitted concurrently with the filing of the instant application.

The petition under 37 CFR 1.47(a) is a copy of the petition filed in parent Application No. 09/574,379 filed on February 27, 2001. The petition was granted in parent Application No. 09/574,379 on March 28, 2001. 37 CFR 1.63(d)(3) states:

> "Where the executed oath or declaration of which a copy is submitted for a continuation or a divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims benefit under 35 U.S.C. 120, 121 or 365(c).

The petition was accompanied by a copy of the decision granting a petition under 37 CFR 1.47(a) in the prior application as required by 37 CFR 1.63(d)(3).

The application and papers are 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), no notice of this application's filing will be forwarded to the non-signing inventor nor will such notice be published in the Official Gazette[1] since notice regarding the filing of the prior application was given to the non-signing inventor.

---

[1] Note Federal Register, Vol. 65, No. 175; Friday, September 8, 2000.

However, petitioner should take notice that the copy of the declaration signed by Thomas Whalen is inconsistent with the other two copies of the declaration. The address differs on Mr. Whalen's copy from the other copies. Therefore, petitioner should submit an Application Data Sheet in compliance with 37 CFR 1.76 **or** a supplemental oath or declaration reflecting the correct address **prior to the payment of the issue fee.**

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 1619 for examination in due course.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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MAY 2 8 2004

OFFICE OF PETITIONS

In re Application of
Ronald W. Mink et al
Application No. 09/973,956
Filed: October 11, 2001
Attorney Docket No. 044170-5052-01

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed February 19, 2004, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed February 19, 2004, states that "This application also claims benefit under 35 U.S.C. § 119 from U.S. Provisional Application 60/079,952, filed March 30, 1998." However, the instant application was filed on October 11, 2001, which is well over twelve(12) months from the filing date of the provisonal application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a substitute amendment to correct the above matter is required.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: 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) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
NIXON PEABODY LLP
401 9TH STREET, N.W.
WASHINGTON DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of
Ronald W. Mink et al
Application No. 09/973,956
Filed: October 11, 2001
Attorney Docket No. 044170-5052-01

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed October 28, 2004, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, Application No. 09/280,269, was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/079,958, which was filed on March 30, 1998, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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.

Additionally, the continuity data on the Application Data Sheet submitted with the instant petition is inconsistent with the data submitted in the concurrently filed amendment.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1723 for appropriate action on the amendment submitted October 28, 2004, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed 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

cc:
NIXON PEABODY, LLP
401 9TH STREET, N.W., SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 6

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
W. Casey, Robert :
Application No. 09/973,975 : ON PETITION
Filed: October 11, 2001 :
Attorney Docket No. RWC 01065 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 31, 2005, 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 October 4, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 5, 2003. A Notice of Abandonment was mailed June 20, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2800 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

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JUL 20 2007

OFFICE OF PETITIONS

In re Application of	:	
CASEY	:	
Application No.: 09/973,975	:	DECISION ON PETITION
Filing Date: October 11, 2001	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: RWC 01065	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowability mailed September 7, 2006, which set a three month statutory period for response. Accordingly, by operation of law, the above-identified application became abandoned on December 8, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (3) above. It is noted that only page 1 of the petition is present in the application file.

Applicant's request for a waiver of the petition fee is refused. The requirement for a reply to the Notice of Allowability has never been vacated in any official commutation mailed by the Office.

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 reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
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

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

COPY MAILED

AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
CASEY :
Application No.: 09/973,975 : DECISION ON PETITION
Filing Date: October 11, 2001 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: RWC 01065 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowability mailed September 7, 2006, which set a three month statutory period for response. Accordingly, by operation of law, the above-identified application became abandoned on December 8, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/21/06

TO SPE OF : ART UNIT **1637**

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/973981 Patent No.: 6861514

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: _____

_____

_____

_____

_____

SPE **Art Unit** 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 03-02

Paper No. 6

DENNISON, SCHEINER, SCHULTZ & WAKEMAN
Suite 612
1745 Jefferson Davis Highway
Arlington VA 22202

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MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Kurt Dahlberg	:	
Application No. 09/973,986	:	DECISION REFUSING STATUS
Filed: 11 October, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 01186CONT	:	

This is in response to the petition under 37 CFR 1.47(b) filed on 26 December, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 11 October, 2001, without an executed oath or declaration.

Accordingly, on 26 October, 2001, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, the basic filing fee, additional claim fee(s), and a surcharge for their late filing.

In response, on 26 December, 2001, the present petition and authorization to charge the basic filing fee, additional claim fees, the petition fee, and the late-filing surcharge to

counsel's credit card filed, accompanied by a declaration naming Kurt Dahlberg as the sole inventor and signed by petitioner's registered patent attorney, counsel for the putative assignee, Hydropulsor AB on behalf of the non-signing inventor

Petitioner states that the inventor refused orally to sign a declaration for the parent application.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (5), and (6). In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventor for review.[1] In this respect, it is noted that the declaration of Lars-Erik Dahl, Vice President of Hydropulsor AB does not indicate whether a copy of the present patent application (specification, including claims, drawings, if any, and the declaration) were ever sent or given to the non-signing inventor.

Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person with first-hand knowledge of the details.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application was sent or given to the non-signing inventor. If there is a written refusal, a copy of that written refusal should be provided 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.

---

[1] MPEP 409.03(d).

In regards to item (5), proof must be shown that Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[2] A copy of the employment agreement between the non-signing inventor and the Rule 47(b) applicant (company); a copy of an executed assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of authority in that jurisdiction, award the title of the invention to the Rule 47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[2] MPEP 409.03(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Paper No. 9

DENNISON, SCHEINER, SCHULTZ & WAKEMAN
Suite 612
1745 Jefferson Davis Highway
Arlington VA 22202

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SEP 2 0 2002
OFFICE OF PETITIONS

In re Application of	:
Kurt Dahlberg	: DECISION NOTING JOINDER OF
Application No. 09/973,986	: INVENTOR AND PETITION UNDER
Filed: 11 October, 2001	: 37 CFR 1.47(b) MOOT
Attorney Docket No. 01186CONT	:

Papers filed on 11 September, 2002, in reply to the "Decision Refusing Status Under 37 CFR 1.47(b)" mailed on 11 March, 2002, included a Declaration signed by the previously nonsigning inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is moot; this application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/973,997	None	None	None

CONFIRMATION NO.
1479

Kendal Sheets
ZITO tlp
26005 Ridge Road, Suite 203
Damarcus, MD 20872

Date Mailed: January 26, 2005

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment is attached/will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

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
09/973,997	None	None	None

CONFIRMATION NO.
1479

Kendal Sheets
ZITO tlp
26005 Ridge Road, Suite 203
Damarcus, MD 20872

Date Mailed: January 26, 2005

Decision Granting Petition under 37 CFR 1.138(c)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment is attached/will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

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

PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 06430

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APR 19 2002

OFFICE OF PETITIONS

In re Application of :
Lahti, et al :
Application No. 09/974,021 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 324-010620-US(PAR) :

This is a decision on the petition filed on January 18, 2002, to accord the above-identified application a filing date of October 9, 2001.

The petition is **granted**.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> 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 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 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. The application will, therefore, be accorded a filing date of October 9, 2001. A corrected filing receipt is enclosed.

The "Declaration and Power of Attorney for Patent Application", "Preliminary Amendment" and English translation of the specification, all filed January 18, 2002, are noted and made of record.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 9, 2001.

Telephone injuries should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt