MAR 27 2002

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#3

G. Franklin Rothwell
Rothwell, Figg, Ernst, & Manbeck
555 13th Street, N.W.
Washington, D.C. 20004

In re Application of :
GROSCH et al. :
Application No.:09/980,842 :
PCT No.: PCT/NO00/00195 : DECISION ON
Int. Filing Date: 05 June 2000 : PAPERS UNDER 37 CFR 1.42
Priority Date: 11 June 1999 :
Attorney Docket No.: 2036-202 :
For: A METHOD AND A SYSTEM FOR CONTROLLING A HEATING PLANT

This is a response to the declaration filed 07 December 2001 which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 05 June 2000, applicants filed international application PCT/NO00/00195, which claimed a priority date of 11 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 December 2000. A proper Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire on 11 December 2001.

On 07 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a preliminary amendment; and an executed declaration.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed 07 December 2001 is executed by inventor, Christian Grosch, and Lillan Grosch as the "administrator" of the deceased inventor, Jan Grosch. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(b)(2), the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 07 December provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the administrator or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42" and be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Tel: (703) 308-6314
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17 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#5

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Washington, D.C. 20004

In re Application of :
GROSCH et al. :
Application No.:09/980,842 :
PCT No.: PCT/NO00/00195 : DECISION ON
Int. Filing Date: 05 June 2000 : PAPERS UNDER 37 CFR 1.42
Priority Date: 11 June 1999 :
Attorney Docket No.: 2036-202 :
For: A METHOD AND A SYSTEM FOR CONTROLLING A HEATING PLANT

This decision is in response to applicant's "Renewed Submission under 37 CFR 1.42" filed on 22 May 2002. In a decision dated 27 March 2002, applicants' request filed 07 December 2001 was dismissed because the declaration was defective under 37 CFR 497(b).

On 22 May 2002, applicant filed the present renewed request accompanied by an declaration/power of attorney executed by inventor, Christian Grosch and Lillan Grösch as the "administrator" of the deceased inventor, Jan Grosch.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

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

The declaration filed 22 May 2002 is executed by Christian Grosch, and Lillan Grosch as the "administrator" of the deceased inventor, Jan Grosch. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 22 May 2002.

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

The application has an international filing date of 05 June 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **22 May 2002**.

Deposit Account No.02-2135 has been charged a $65.00 surcharge fee under 37 CFR 492(e) for supplying an oath or declaration later than 30 months from the earliest claimed priority date.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Leonard Smith
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PCT Legal Office

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PCT Legal Office
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Fax: (703) 308-6459

28 JUN 2004

#6

UNITED STATES PATENT AND TRADEMARK OFFICE

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John P. White
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re Application of BARASCH et al. Application No.: 09/980,853 PCT No.: PCT/US00/12536 Int. Filing Date: 04 May 2000 Priority Date: 04 May 1999 Attorney's Docket No.: 58040-A-PCT-US For: A METHOD OF INDUCING FORMATION OF KIDNEY EPITHELIA FROM MESENCHYMAL PRECURSORS	DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicant's 05 April 2004 petition entitled "Petition to Withdraw Holding of Abandonment in Response to February 24, 2004 Notification of Defective Response Abandonment". The petition is being treated as a petition under 37 CFR 1.181, requesting acceptance of documents filed on 05 April 2004 for completion of the application. No petition fee is required.

BACKGROUND

On 02 November 2001, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 22 January 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration executed by the inventors in compliance with 37 CFR 1.497(a) & (b) and the surcharge for filing the oath or declaration after the thirty month period was required. Applicant was also advised that an initial or substitute computer readable form (CFR) of the 'Sequence Listing' was required along with a statement under 37 CFR 1.821(e), (f), (g) or (h)

On 12 March 2002, in response to the Notification of Missing Requirements, applicant filed a declaration executed by the inventors in compliance with 37 CFR 1.497(a) and (b).

On 24 February 2004, a Notification of Defective Response Abandonment was inadvertently mailed to applicant, indicating that no reply to the 22 January 2002 Notification of Missing Requirements was received and the application was abandoned.

On 05 April 2004, applicant, in response to the Notification of Defective Response Abandonment, filed the instant petition including a copy of postcard bearing a USPTO mail room date-stamped of 12 March 2002 indicating that a response to the January 22, 2002 Notification of Missing Requirements was deposited on that date with the USPTO. Applicant also filed a copy of the earlier reply to the Notification of Missing Requirements including a paper copy and computer-readable form of the Sequence Listing.

A review of the application file reveals that a declaration was filed on 12 March 2002 and is found in the application file. The declaration was received and is date-stamped "REC'D PCT/PTO 12 MAR 2002". The declaration, executed by the inventors, is acceptable as it meets the requirements of 37 CFR 1.497 and 35 U.S.C. 371.

The Computer Readable Form of the Sequence Listing was entered on 22 June 2004 and is acceptable. Applicant provided the appropriate statement under 37 CFR 1.821(f) on 02 November 2001. A review of the application file reveals that all of the 35 U.S.C. 371 requirements have been met.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **MOOT**. The 24 February 2004, a Notification of Defective Response Abandonment is hereby **VACATED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is **12 March 2002.**

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 1 4 2004

OFFICE OF PETITIONS

JOHN A. CASTELLANO
P.O. BOX 8910
RESTON, VA 20195

In re Application of :
Jakob Stoustrup et al :
Application No. 09/980,858 : NOTICE
Filed: February 26, 2002 :
Attorney Docket No. 0459-0688P

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 the Publishing Division.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090922

DATE : September 22, 2009

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7,001,882

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: /Andrew Wang/ **Art Unit** 1656

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,001,882 :
Issue Date: February 21, 2006 :
Application No. 09/980,862 : NOTICE
Filed: February 27, 2002 :
Attorney Docket No. **029029-0101** :

This is a notice regarding your request filed November 10, 2009, 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 **NOT ACCEPTED**.

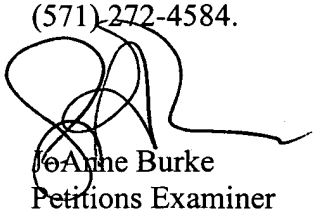
It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent 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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

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JOE LEBESCHUETZ
TOWNSEND TOWNSEND & CREW
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Patent No. **7,060,266** :
Issue Date: June 13, 2006 :
Application No. 09/980,881 : NOTICE UNDER 37 CFR 1.28(C)
Filed: March 28, 2002 :
Attorney Docket No. **082371-000000US** :

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**.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

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

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

Mail Date: 04/20/2010

Applicant	: Henning Schulzrinne	: DECISION ON REQUEST FOR
Patent Number	: 7610384	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/980,885	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1128** 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.

18 OCT 2004

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David R. Metzger
Sonnenschein Nath & Rosenthal
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, IL 60606-1080

In re Application of SATO et al	:	
U.S. Application No.: 09/980,888	:	
PCT Application No.: PCT/JP01/02908	:	
Int. Filing Date: 04 April 2001	:	COMMUNICATION
Priority Date Claimed: 04 April 2000	:	
Attorney Docket No.: 09792870-0002	:	
For: THREE-DIMENSIONAL IMAGE PRODUCING METHOD AND APPARATUS THEREFOR	:	

This is in response to applicant's "Petition for Corrected Filing Receipt Under 37 CFR §1.181" filed 11 March 2002.

The inventorship will be corrected as requested. The title of invention will not be corrected as requested because the current title matches that shown on the published international application.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected filing receipt which lists Koichi Takeuchi as the third inventor.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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Fulbright & Jaworski LLP
666 Fifth Avenue
New York, NY 10103

In re Application of :
WIETZORECK, Hardy et al. :
Application No.: 09/980,910 :
PCT No.: PCT/EP01/02498 : DECISION ON
Int. Filing Date: 06 March 2001 :
Priority Date: 07 March 2000 : PETITION
Attorney Docket No.: DNAG 224-PFF/JRC :
For: METHOD FOR APPLYING A : UNDER 37 CFR 1.181
PHOSPHATE COVERING AND USE :
OF METAL PARTS THUS :
PHOSPHATED :

This decision is in response to applicant's "Request to Withdraw Abandonment," filed on 01 March 2004.

BACKGROUND

On 06 March 2001, applicant filed international application PCT/EP01/02498. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 13 September 2001. The deadline for entry into the national stage in the United States was thirty months from the priority date, 07 November 2001.

On 02 November 2001, applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by the basic national fee.

On 30 January 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and a translation of the international application into English were required.

On 27 February 2004, the Office mailed Notice of Abandonment indicating that the application went abandoned for failure to reply to the 30 January 2002 Notice.

On 01 March 2004, applicants submitted the instant petition accompanied by a postcard receipt, a translation and a declaration.

DISCUSSION

A petition under 37 CFR 1.181 must be accompanied by copies of what is claimed to have been earlier submitted and evidence that those papers were submitted at an earlier point.

Applicant has submitted a copy of a postcard receipt identifying the instant application by serial number and docket number, stamped 26 February 2002 and listing a translation and a declaration. This is adequate evidence that the listed items were received by the Office on 26 February 2002. Applicant indicates that the enclosed are true copies of the 26 February 2002 submissions and the statement is signed by someone registered to practice before the Office.

The declaration submitted on 26 February 2002 satisfies the requirements of 37 CFR 1.497(a)-(b).

CONCLUSION

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

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Acceptance (Form PCT/DO/EO/903) and filing receipt. The date under date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) date is 26 February 2002.

Erin M. Pender

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
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07 MAY 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

#6

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Sten Erik Hakanson
IMI Cornelius Inc.
One Cornelius Place
Anoka, Minnesota 55303-6234

In re Application of	:	
BARKER et al.	:	DECISION ON
Application No.: 09/980,912	:	PETITION UNDER
PCT No.: PCT/GB00/01732	:	37 CFR 1.137(b)
Int. Filing Date: 05 May 2000	:	AND
Priority Date: 08 May 1999	:	37 CFR 1.42
Attorney Docket No.: 2A0120.USD	:	
For: DOSING VALVE WITH FLOW RATE SENSOR FOR A BEVERAGE DISPENSER		

This is in response to the petition under 37 CFR 1.137(b) filed 01 April 2003 to revive the above-identified application. The $1300.00 petition fee has been paid.

BACKGROUND

On 05 May 2000, applicants filed international application PCT/GB00/01732, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 November 2000. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2001.

On 08 November 2001, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 06 February 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 06 February 2002 within the time period set therein.

On 01 April 2003, applicants filed the present petition under 37 CFR 1.137(b) which was accompanied by an executed declaration. The declaration is executed by: Keith James Heyes; Martin Stanley Johnson; Steven Maulder; Phillip Andrew Simmons as inventors; and Linda Barker on behalf of deceased inventor, Paul Barker.

DISCUSSION

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

Regarding item (1) above, the application file reveals that a proper response should include the proper papers and fees which meet the requirements of 35 U.S.C. 371 for entry into the national stage in the United States. However, an acceptable signed oath/declaration of the inventor(s) (see below) was not furnished; therefore, all of the requirements of 37 CFR 1.137(b) for a complete response has not been fulfilled and the application remains ABANDONED.

Declaration of the Inventors under 37 CFR 1.42

A review of the declaration filed 01 April 2003 reveals that Linda Barker has signed the declaration on behalf of deceased inventor, Paul Barker.

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

Section 409.01(a) of the Manual of Patent Examining Procedure (MPEP) states that the application can also be executed by "all of the heirs" of the deceased inventor, where no legal representative has been appointed.

The declaration submitted on 01 April 2003 was executed by Linda Barker for the deceased inventor, Paul Barker. However, the declaration does not state the relationship of Linda Barker to the deceased inventor. Absent a statement that the signing heir is the sole heir or legal representative (executor) of the deceased inventor, the declaration cannot be accepted under 37 CFR 1.42.

In addition, it is noted that revised 37 CFR 1.497(b)(2) states the following:

> (2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath

> or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the residence, citizenship, and post office address of the deceased inventor, the declaration must also provide this information (residence, citizenship, and post office address) for the signing heir. The declaration filed on 01 April 2003 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the heir or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

CONCLUSION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

A proper response must include a declaration in accordance with 37 CFR 1.497(a) and (b) and 37 CFR 1.42.

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

Anthony Smith
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08 JUL 2003

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Sten Erik Hakanson
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In re Application of :
BARKER et al. :
Application No.: 09/980,912 : DECISION ON
PCT No.: PCT/GB00/01732 : PETITION
Int. Filing Date: 05 May 2000 :
Priority Date: 08 May 1999 :
Attorney Docket No.: 2A0120.USD :
For: DOSING VALVE WITH FLOW RATE SENSOR FOR A BEVERAGE DISPENSER

This is in response to the communication filed 30 June 2003 which is being treated as a renewed petition under 37 CFR 1.137(b) and 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 05 May 2000, applicants filed international application PCT/GB00/01732, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 November 2000. A Demand for international preliminary examination electing the United States was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 November 2001.

On 08 November 2001, applicants filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 06 February 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 15 November 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 06 February 2002 within the time period set therein.

In a decision dated 07 May 2003, applicants' petitions under 37 CFR 1.137(b) and 37 CFR 1.137(b) was dismissed without prejudice

On 30 June 2003, applicants filed the present petition.

DISCUSSION

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

Declaration of the Inventors under 37 CFR 1.42

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

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

The declaration filed on 30 June 2003 is executed by Linda Barker as the "executor" of the deceased inventor, Paul Barker. The present declaration taken in combination with the previously submitted declaration fulfills the requirements of 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 30 June 2003.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** and the papers filed under 37 CFR 1.42 are ACCEPTED.

The application has an international filing date of 05 May 2000, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **30 June 2003**.

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Anthony Smith

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PHILADELPHIA PA 19103-2307

In re application of Ernest Arenas et al. :
Serial No. : 09/980,913 : DECISION ON PETITION
Filed : May 31, 20002 :
Attorney Docket No.: 0380-PO2709US0 :

This is in response to applicants' petition, filed January 6, 2004 under 37 CFR 1.144, to withdraw the restriction requirement set forth by the examiner.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 371 as the National Stage of PCT/EP00/03842, filed May 31, 2002, which claims priority to U.S. provisional application 60/139,111, filed June 14, 1999. The application, as filed with preliminary amendments, contained claims 1-15, 19-21, 23-43, 48-54 and 58. In a first Office action mailed March 19, 2003, the examiner set forth a restriction / lack of unity requirement under 35 U.S.C. 121 and 372 dividing the claims into 7 groups as follows:

Group I, claims 1-12, 19-21, 32-40 drawn to methods of inducing a dopaminergic neuronal fate for a neural stem cell or neural progenitor cell, comprising expressing Nurr1 above basal levels in the neural stem cell or neural progenitor cell, and the dopaminergic neuronal cell produced thereby; as well as methods drawn to screening for a factor or factors that induce a dopaminergic fate in a neural stem or progenitor cell expressing Nurr1 above basal levels.

Group II, claims 13-15, 41-43 drawn to a process of producing a medicament comprising a dopaminergic neuron and use of the medicament for transplantation into the brain of a subject.

Group III, claims 23-24, 58 drawn to use of a dopaminergic neuron in methods of screening for an agent for use in treatment of a neurodegenerative disease, as well as drawn to a method directed towards using a dopaminergic neuron in methods of screening for compounds that enhance an ability of the neuron to recover from or tolerate a toxic compound.

Group IV, claims 25-28, drawn to a method of formulating into a composition an agent that improves the ability of a dopaminergic receptor to recover from or tolerate a toxin and administration of the composition comprising the agent to an individual.

Group V, claims 29-31, drawn to a method of screening for a receptor or receptors for factors obtained from Type I astrocytes, comprising comparing neural stem and progenitor cells with or without expression of Nurr-1 to identify the receptors).

Group VI, claims 48-51, drawn to methods of screening for a substance which modulates the ability of Type I astrocytes, or molecules obtained from such astrocytes, to induce a dopaminergic fate in neural stem or progenitor cells.

Group VII, claims 52-54, drawn toward administration to an individual of a composition that modulates the ability of a Type I astrocyte, or molecules produced therefrom, to induce a dopaminergic fate in a neuronal stem or progenitor cell.

In a response filed April 28, 2003 applicants elected Group I, with traverse. On July 16, 2003 the examiner mailed a first Office action on the merits, in which the restriction requirement was made final. On January 20, 2004 applicants submitted a response including an amendment which added claims 59-61.

DISCUSSION

Applicants argue that lack of unity was not found by the international search and examination authority (European Patent Office). This argument is not persuasive. The USPTO is not obligated to follow the same path as the EPO. Moreover, many claims were neither searched nor examined by the EPO for other reasons.

Applicants argue that the examiner did not correctly apply the standards for unity of invention. This is correct. However, the undersigned does not share applicants' view that no restriction requirement at all should have been made. Restriction in applications filed under 35 U.S.C. 371 is governed by 37 CFR 1.475, which states in part:

> (b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:
> (1) A product and a process specially adapted for the manufacture of said product; or
> (2) A product and a process of use of said product; or
> (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
> (4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.

(d) If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

Following this guidance, a proper restriction requirement would have been as follows:

Group I: Claims 1-15 and 19-21, drawn to a method of making a product, the product made, and the first claimed method of using the product.

Group II: Claims 23-28 and 58, drawn to a second method of using the product.

Group III: Claims 29-31 and 37-43, drawn to a third method of using the product.

Group IV: Claims 32, 33 and 36, drawn to a fourth method of using the product.

Group V: Claims 34 and 35, drawn to a fifth method of using the product.

Group VI: Claims 48-54, drawn to a sixth method of using the product.

It is noted that the product itself, dopaminergic neurons, is not novel. Transplantation of dopaminergic neurons for treatment of Parkinson's disease was also known. Therefore the special technical feature of Group I is the method for making the product. This method is not included in Groups III – VI. Group II is a screening method which clearly raises different issues of patentability than the treatment method of Group I.

DECISION

Applicants' petition is **GRANTED IN PART**.

The application will be forwarded to the examiner for consideration of the response filed January 20, 2004. All claims drawn to inventions which were previously examined will be considered (i.e. claims 1-15, 19-21, 29-43 and 59-61). Claims 23-28, 48-54 and 58 will remain withdrawn from consideration.

Any request for reconsideration or review of this decision must be made by a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA, 22313-1450, or by telephone at (571) 272-0974 or by facsimile transmission at (571) 273-0974.

John Doll
Director, Technology Center 1600

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In re Application of:	:	
JAFFREY, Donald	:	
US Application No.: 09/980,956	:	PETITION UNDER
PCT Application No.: PCT/AU00/00631	:	37 CFR 1.181
International Filing Date: 02 June 2000	:	
Priority Date: 4 June 1999	:	
Attorney's Docket No.: A-71184/DJB/MAK	:	
For: A FUEL CELL GAS SEPARATOR	:	

This decision is in response to the "COMMUNICATION OF NON-RECEIPT OF NOTICE OF MISSING REQUIREMENTS" filed by applicant via facsimile transmission on 23 April 2002 which is hereinafter treated as a petition under 37 CFR 1.181.

BACKGROUND

On 02 June 2000, applicant filed International Application PCT/AU00/00631 which claimed its earliest priority from application PQ 0788 filed in Australia on 04 June 1999. The international application designated the United States. A Demand for international preliminary examination, in which the United States was elected, was timely filed on 20 December 2000. Accordingly, the thirty-month period for meeting the requirements for entry into the national stage expires at midnight on 04 December 2001.

On 04 December 2001, applicant filed a transmittal letter for entry into the national stage of the United States which was accompanied by, inter alia, the requisite basic national filing fee and a copy of the international application transmitted by the International Bureau.

On 31 January 2002, the United States Designated/Elected Office mailed applicant a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) was required. Applicant was given a TWO (2) MONTH period from the mail date of the Notification to properly respond, with extensions of time obtainable under 37 C.F.R. 1.136(a).

On 23 April 2002, applicant filed the "COMMUNICATION" via facsimile transmission which included a statement signed by Mr. Michael Kaufman that "a thorough search of our file wrapper for

Appl. No. 09/980,956 (our File No. A-71184/DJB/MAK) failed to disclose any Notice of Missing Requirements." The "COMMUNICATION" further included a printout which indicated all cases docketed with a due date of 31 March 2002.

On 01 May 2002, applicant filed a revised "COMMUNICATION" via facsimile transmission which included a statement signed by Mr. Michael Kaufman that "a search of our office docket records also indicated a Notice of Missing requirements was not received."

DISCUSSION

MPEP 711.03(c) includes the following:

> *To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).*

Applicant has successfully met the requirements as described above.

CONCLUSION

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

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further review and processing in accordance with this decision, including mailing a new NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) to applicant indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) is required and the due date for response being calculated from the mailing date of the new NOTIFICATION.

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Leonard Smith
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25 AUG 2003

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In re Application of	:	
Donald JAFFREY	:	DECISION ON PETITION
Application No.: 09/980,956	:	
PCT No.: PCT/AU00/00631	:	UNDER 37 CFR 1.181
Int. Filing Date: 02 June 2000	:	
Priority Date: 04 June 1999	:	
Attorney Docket No.:A-71184/DJB/MAK	:	
For: A FUEL CELL GAS SEPARATOR	:	

This decision is in response to applicant's Statement For Withdrawal Of Abandonment filed by facsimile on 07 August 2003 which is being treated as a petition under 37 CFR 1.181 requesting that a Notification Of Abandonment mailed 14 March 2003 be vacated.

BACKGROUND

On 02 June 2000, applicant filed international application PCT/AU00/00631 claiming priority to an earlier application filed 04 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 20 December 2000. Accordingly, the thirty month period for paying the basic national fee in the United States of America expired at midnight on 04 December 2001.

On 04 December 2001, applicant filed a Transmittal Letter (From PTO-1390) for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee.

On 04 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements Under 35 U.S.C. 371 In The United States Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905). The Notification indicated that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) must be submitted

within two months of its 04 June 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 14 March 2003, the DO/EO/US mailed a "Notification Of Abandonment" (Form PCT/DO/EO/909) indicating that the application is abandoned as to the United States of America for failure to respond to the Notification mailed 04 June 2002.

On 07 August 2003, applicant filed the instant petition effectively requesting that the Notification Of Abandonment mailed 14 March 2003 be vacated in view of the timely submission of a declaration. The petition was accompanied by, *inter alia*, a copy of a check for $40.00, a copy of a transmittal letter, a copy of an assignment form (Form PTO-1595), a copy of an assignment document, a copy of a power of attorney by assignment, a copy of a combined declaration and power of attorney, a copy of an information disclosure statement, a copy of the international search report, and a copy of a date-stamped postcard receipt.

DISCUSSION

MPEP at section 503 states, in part:

> "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."

Applicant's postcard receipt lists a Transmittal of Missing Requirements, Copy of Notification of Missing Requirements Under 35 U.S.C. 371, Declaration and Power of Attorney for Patent Application, Assignment with Form PTO-1595, Our Check No. 1244 in the amount of $40.00, Power of Attorney by Assignee, and Information Disclosure Statement with Form PTO-1449 and copies of prior art references and includes a U.S. Patent and Trademark Office (PTO) date stamp of 25 June 2002.

PTO financial records indicate receipt of a $40.00 assignment fee on 25 June 2002.

The evidence is sufficient to establish that the executed declaration was filed on 25 June 2002.

CONCLUSION

In view of the above, applicant's petition is **GRANTED**.

The Notification of Abandonment mailed 14 March 2003 is hereby **VACATED**.

The application is being returned to the DO/EO/US for issuance of a Notification Of Acceptance Under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of 25 June 2002 under 35 U.S.C. 371.

Applicant should note that the petition filed 07 August 2003 did not contain copies of the references listed on the Form PTO-1449. Although there is sufficient evidence that the copies were originally filed on 25 June 2002, the file does not contain copies of those references and they should be resubmitted in order to ensure their consideration by the examiner.

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Leonard Smith
PCT Legal Examiner
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OFFICE OF PETITIONS

In re Application of :
John McCune Anderson et al. :
Application No. 09/980,971 : ON PETITION
Filed: April 12, 2002 :
Attorney Docket No. U0139-7001 :

This is a decision on the petition filed November 22, 2004, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on July 22, 2004 for failure to file a timely response to the non-Final Office Action mailed April 21, 2004 which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed October 29, 2004.

Petitioner asserts that a proper response, was filed on October 21, 2004 with a three month extension of time request. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of mail pursuant to 37 CFR 1.8, a copy of the extension of time request, and a copy of the postcard receipt, date stamped October 25, 2004 by the USPTO. A review of the file also reveals that the fee for the extension of time, in the amount of $490.00 was posted to the finance records for this application on October 25, 2004.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3762 for appropriate action on the amendment filed October 21, 2004, a copy of which was submitted upon petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

23 SEP 2003

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In re Application of :
JOSEFSSON, Annika :
Application No.: 09/980,980 :
PCT No.: PCT/SE00/00853 :
Int. Filing Date: 03 May 2000 :
Priority Date: 06 May 1999 :
Attorney's Docket No.: 1432 :
For: METHOD FOR DISTRIBUTING MAIL :

DECISION ON

PETITION

UNDER 37 CFR 1.182

This decision is in response to applicant's "Petition to the Commissioner Under 37 C.F.R. §1.182," filed in the United States Patent and Trademark Office on 09 April 2003.

BACKGROUND

On 03 May 2000, applicant filed international application PCT/SE00/00853, which claimed a priority date of 06 May 1999. On 29 November 2000, applicant filed a demand for international preliminary examination which elected the United States, prior to nineteen months from the priority date. The deadline for entry into the national stage in the United States was midnight 06 November 2001.

On 12 September 2001, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 February 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 12 September 2002, applicant filed a declaration executed by Annika Wibeck.

On 10 December 2002, the Office mailed Notification, indicating that the declaration was not in compliance with 37 CFR 1.497(a)-(b).

On 07 April 2003, the Office mailed a Notification of Acceptance (Form PCT/DO/EO/903) indicating that application's dates under 35 USC 371 were 30 September 2002.

On 09 April 2003, applicant filed the instant petition.

DISCUSSION

The petition under 37 CFR 1.182 and the accompanying statement under 37 CFR 1.182 from the inventor whose name has changed fulfill the requirements of 37 CFR 1.182. Applicant declares that Annika Josefsson and Annika Wibeck are one and the same person and that her name changed subsequent to her marriage.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 07 April 2003 indicating the application had 30 September 2002 as its date under 35 USC 371 issued in error and is vacated.

CONCLUSION

For the above reasons, the Petition Under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision, including the mailing of a new Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application's 35 USC 371 dates are 12 September 2002.

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#8

In re Application of	:	
Horst Dollinger et al	:	
Serial No.: 09/981,025	:	PETITION DECISION
Filed: October 16, 2001	:	
Attorney Docket No.: 1/1154	:	

This is a decision on the petition under 37 CFR 1.144, filed June 24, 2003, requesting review of a restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on October 16, 2001. The examiner assigned to the application mailed a first Office action to applicants on December 17, 2002, setting a one month shortened statutory period for reply, and setting forth a restriction requirement as follows:

> Group I, claims 1-27, drawn to a compound, its pharmaceutical composition and method of making;
> Group II, claims 28-31, drawn to a method of treating various diseases and/or conditions.

The examiner argued that the Groups were related as product and process of use and that the process could be practiced with other compounds or compositions. The examiner also required an election of species within Group I, if elected.

Applicants replied on January 21, 2003, electing Group I with traverse arguing that there was no undue examination burden to examine both groups, but requesting rejoinder if the requirement is maintained and the product claims are found allowable. Applicants also elected a species, as required, indicating that claims 1-16 and 21-31 read on the elected species.

On April 3, 2003, the examiner mailed Office action on the merits of the elected species. The examiner maintained the restriction requirement and election of species and replied to applicants'

traversal thereof. The requirement was made Final. The examiner further indicated the elected species as allowable, but rejected claims 1-16 and 21-27 as unpatentable in view of Esser et al which teaches various other species set forth in the claims (see specifically Examples 16, 55 and 61). Applicants then filed this petition on June 24, 2003.

DISCUSSION

Applicants' petition appears to be directed only to the election of species requirement, although it is noted that rejoinder of the claims has been requested should the product claims be found allowable. Applicants refer to M.P.E.P. 803.02 practice with regard to an election of species.

> 803.02 Restriction . Markush Claims
> PRACTICE RE MARKUSH-TYPE CLAIMS
>
> If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure described below and will not require restriction.
> Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. *In re Harnish*, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and *Ex parte Hozumi*, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility.
> This subsection deals with Markush-type generic claims which include a plurality of alternatively usable substances or members. In most cases, a recitation by enumeration is used because there is no appropriate or true generic language. A Markush-type claim can include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing claims of that nature, the examiner may require a provisional election of a single species prior to examination on the merits. The provisional election will be given effect in the event that the Markush-type claim should be found not allowable. Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable over the prior art, examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.
> As an example, in the case of an application with a Markush-type claim drawn to the compound C-R, wherein R is a radical selected from the group consisting of A, B, C, D, and E, the examiner may require a provisional election of a single species, CA, CB, CC, CD, or CE. The Markush-type claim would then be examined fully with respect to the elected species and any species considered to be clearly unpatentable over the elected species. If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected and claims to the nonelected species would be held withdrawn from further consideration. As in the prevailing practice, a second action on the rejected claims would be made final.
> On the other hand, should no prior art be found that anticipates or renders obvious the elected species,

the search of the Markush-type claim will be extended. If prior art is then found that anticipates or renders obvious the Markush-type claim with respect to a *non-elected species*, the Markush-type claim shall be rejected and claims to the nonelected species held withdrawn from further consideration. The prior art search, however, will not be extended unnecessarily to cover all nonelected species. Should applicant, in response to this rejection of the Markush-type claim, overcome the rejection, as by amending the Markush-type claim to exclude the species anticipated or rendered obvious by the prior art, the amended Markush-type claim will be reexamined. The prior art search will be extended to the extent necessary to determine patentability of the Markush-type claim. In the event prior art is found during the reexamination that anticipates or renders obvious the amended Markush-type claim, the claim will be rejected and the action made final. Amendments submitted after the final rejection further restricting the scope of the claim may be denied entry.

From the examiner's action it appears that the above guidelines have been followed. The elected species was examined and found to be free of the prior art and consideration then extended to additional related species, some of which were found to be obvious over the prior art. Thus the elected claims containing the elected species, as defined by applicants, have been properly examined. There is no requirement for the examiner to consider species in claims withdrawn from consideration until all species of the elected claims have been found allowable. Thus claims 17-20 remain properly withdrawn from consideration as do claims 28-31.

DECISION

Applicants' petition under 37 CFR 1.144 is **DENIED.**

Applicants remain under obligation to file a proper reply to the Office action of April 3, 2003, within the time period as set therein or as may be extended under 37 CFR 1.136(a).

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

In re Application of :
Odenwalder, et al. : DECISION ON PETITION
Application No. 09/981,027 :
Filed: October 15, 2001 :
Docket No.: PA020032 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 25, 2007.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed January 30, 2004. Notice of Abandonment was mailed May 9, 2007.

Petitioner asserts that a response to the non-final Office action was timely submitted on April 9, 2004 and have provided as proof of mailing and proof of USPTO receipt a return postcard dated April 9, 2004 acknowledging receipt of the reply.

The original response submitted April 9, 2004 has not been located in the application file. However, in view of the evidence submitted, the reply is deemed to have been timely submitted.

Accordingly, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Joseph P. Odenwalder	: DECISION ON REQUEST FOR
Patent Number	: 7599334	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/981,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/15/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **369** 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

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JUL 16 2003

OFFICE OF PETITIONS

ON PETITION

John William Tocher
18072 Beneta Way
Tustin, CA 92780

In re Application of
John William Tocher
Application No. 09/981,060
Filed: October 18, 2001
Title of Invention: ULTIMATE VENT

This is a decision on the petition under 37 CFR 1.137(a), filed July 3, 2003, to revive the above-identified application.

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

This application became abandoned for failure to timely submit a response to the September 12, 2002 non-final Office Action. The Office Action set a 3 month shortened statutory period for reply. A one month extension of time pursuant to 37 C.F.R. §1.136(a) was obtained. However, a response to the Office Action was not received. Accordingly, this application became abandoned on January 29, 2003. A Notice of Abandonment was mailed on May 6, 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 or if the application is a design application.

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

[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.

relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "avoidable." 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).

Petitioner contends the response to the Office Action was sent to the U.S. Patent and Trademark Office via UPS on January 8, 2003 but the envelope was refused. A second attempt for delivery was made on January 12, 2003 but this was also refused. Petitioner indicates he spoke to a Larry Schwartz, SPE of 3700 who "straightened it out" and referred him to Ira Lazarus, Primary Examiner for Art Unit 3749. Mr. Lazarus suggested petitioner file the instant petition. In support of petitioner's argument, petitioner has provided a UPS receipt.

Petitioner has not provided sufficient evidence to establish unavoidable delay. Petitioner has not stated why the envelope was refused nor has petitioner provided evidence of refusal.

On renewed petition, petitioner should supply any evidence which may assist in establishing unavoidable delay. Petitioner should supply any documentation from UPS which establishes the envelope was refused. Petitioner should also provide a statement as to how and what Larry Schwartz "straightened out". [2]

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR § 1.137(b) must be accompanied by the required reply, the required petition fee ($1300.00), 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 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).

It is also noted that the address on the petition differs from the correspondence address of record. If petitioner desires to receive correspondence at the address provided on the petition a change of correspondence address should be provided. Until such time, all

---

[2] The Office tried to view tracking records for the envelope but was unable to obtain any information. Petitioner may wish to obtain tracking records.

correspondence will continue to be mailed to the correspondence address of record. A courtesy copy of this decision is being forwarded to the address on the petition.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 308-6916
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

John William Tocher
46456 Portage Avenue
Chilliwack B.C.
V2P 3G2
Canada

enclosures

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Paper No. 12

John William Tocher
18072 Beneta Way
Tustin, CA 92780

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MAR 26 2004

OFFICE OF PETITIONS

VACATED DECISION

In re Application of
John William Tocher
Application No. 09/981,060
Filed: October 18, 2001
Title of Invention: ULTIMATE VENT

This decision vacates the decision which was originally mailed on July 16, 2003 under 37 CFR 1.137(a), filed September 3, 2003, to revive the above-identified application.

The petition to revive under 37 CFR 1.137(a) 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 permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit a response to the September 12, 2002 non-final Office Action. The Office Action set a 3 month shortened statutory period for reply. A one month extension of time pursuant to 37 C.F.R. §1.136(a) was obtained. However, a response to the Office Action was not received. Accordingly, this application became abandoned on January 13, 2003. A Notice of Abandonment was mailed on May 6, 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 or if the application is a design application.

The instant petition lacks item (2).

Office records do not reflect receipt of the funds referenced in the petition submitted on

[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.

July 3, 2003. Payment of the petition fee is a prerequisite of treatment of the petition. Any renewed petition should be submitted with a petition fee or proof that the petition fee was received with the original petition.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

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

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, Mail Stop Petition Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

John William Tocher
46456 Portage Avenue
Chilliwack B.C.
V2P 3G2
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

John Tocher
46456 Portage Avenue
Chilliwack BC V2P3G-2 CA CANADA

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
John William Tocher :
Application No. 09/981,060 : ON PETITION
Filed: October 18, 2001 :
Title of Invention: Ultimate Vent :

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

This application became abandoned for failure to timely submit a response to the September 12, 2002 non-final Office Action. The Office Action set a 3 month shortened statutory period for reply. A one month extension of time pursuant to 37 C.F.R. §1.136(a) was obtained. However, a response to the Office Action was not received. Accordingly, this application became abandoned on January 29, 2003. A Notice of Abandonment was mailed on May 6, 2003. Petitions filed under 37 CFR 1.137(a) were dismissed on July 3, 2003 and March 26, 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 response submitted on January 29, 2003.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251until September 24, 2004 thereafter (571) 272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 26 2002
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ESC & M

William F. Lang, IV
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, Pennsylvania 15219

AUG 23 2002

In re Application of
O'NEILL, MICHAEL A., et al.
Application No. 09/690,660
Filed: October 17, 2000
For: SYSTEM AND METHOD OF FORMING COMPOSITE STRUCTURES

In re Application of
O'NEILL, MICHAEL A., et al.
Application No. 09/981,083
Filed: October 16, 2001
For: FIBER-REINFORCED COMPOSITE STRUCTURE

: Decision on Petition

RECEIVED
SEP 20 2002
TECHNOLOGY CENTER 1700

This is in response to the "Petition for Access" filed by William F. Lang, IV on behalf of the Meridan Group a copy of which was filed on August 12, 2002.

As explained below, the petition is **GRANTED IN PART**.

The petition was not filed with proof of service upon the attorney of record of the above referenced applications. Accordingly, a copy of the petition papers is enclosed.

Petitioner included with his petition a copy of a court order appointing The Meridian Group receiver of the property and assets of Advance USA LLC. The petition requests access be provided to The Meridian Group to all applications owned by Advance USA LLC.

The Office can only identify applications for which a proper assignment has been filed to Advance USA LLC, since the Office only decides issues of inventorship not ownership. Hence the Office is unable to identify any other applications for which Advance USA LLC might have an ownership interest for which a proper assignment has not been filed except as noted below.

The assignment record on reel 011395, starting at frame 0408, for application number 09-690,338 which became U.S. Patent No. 6,331,028 included divisional and continuation applications filed thereafter. Although no assignment has been filed for application no. 09-981,083, it claims to be a divisional application of the '338 application. Accordingly, for purposes of access the '083 application will be treated as if it is assigned to Advance USA LLC.

A review of Office records indicates the following applications are assigned to Advance USA LLC: 09-690,660 (status-pending) and 09-981,083 (status-pending).

With respect to the other applications identified in the petition, the request for access to application nos. 07-383,811 and 06-793,791 are addressed in separate papers. The request for access to all other applications is dismissed for the following reasons. Those applications which have matured into a patent are open to public inspection without a petition for access. Requests for access to International applications and European applications are controlled by the respective International and foreign offices. Any request for access to those applications should be addressed to the appropriate foreign office.

In summary, the petition is granted to the extent that petitioner may have access to applications: 09-690,660, and 09-981,083. A copy of this decision should be included with any request for access (i.e., included with any papers filed in the File Information Unit).

The request for access to any other applications is dismissed for above stated reasons or treated in a separate paper.

Any 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) 872-9005
Attn: Office Patent Legal Administration/Michael L. Lewis

By hand: Crystal Plaza 4, CP4-3C23
2201 South Clark Place
Arlington, VA

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Karin Ferriter
Senior Legal Advisor

Attachment: Petition

cc: Cummings & Lockwood
Granite Square
700 State Street
P.O. Box 1960
New Haven CT 06509-1960

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 15

ECKERT SEAMANS CHERIN & MELLOTT
600 GRANT STREET, 44TH FLOOR
PITTSBURGH, PA 15219

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DEC 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Michael A. O'Neill et al :
Application No. 09/981,083 : DECISION GRANTING PETITION
Filed: October 16, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. 133905-00012 :

This is a decision on the petition, filed by facsimile transmission on June 30, 2003, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 1772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement, as well as the Information Disclosure Statement filed on July 11, 2003.

Frances Hicks

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

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

UNITED STATES [redacted]NT AND TRADEMARK OFFICE [redacted]

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

March 2, 2004

Boris Tankhilevich
Law Offices of Boris G. Tankhilevich
536 N. Civic Drive
Suite A
Walnut Creek, CA 94596

In re application of:
Isaksen, et al DECISION ON PETITION
Serial No.: 09/981,085
Filed: October 16, 2001

For: LINEAR PHASE ROBUST CARRIER RECOVERY
FOR QAM MODEMS

This is a decision on the petition received on November 17, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 16, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 17, 2002. A notice of abandonment was mailed on November 6, 2003.

On November 17, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on February 12, 2002 with a certificate of mailing dated January 8, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on February 12, 2002 with a certification of mailing dated January 8, 2002.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 2133.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :
STIBOLT :
Application No. 09/981,089 : DECISION ON PETITION
Filed: October 16, 2001 : TO WITHDRAW
Attorney Docket No. 78742 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 18, 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 Jon A. Birmingham on behalf of all attorneys of record who are associated with Customer No. 22242. All attorneys/agents associated with the Customer Number 22242 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The application became abandoned for failure to respond to an office action mailed September 8, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: PAUL STIBOLT
21413 MAIN STREET
MATTESON, IL 60443

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Commissioner for Patents
United States Patent and Trademark Office
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APR 09 2010

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

In re Patent of Green et al. :
Patent No. 7,589,253 :
Issue Date: September 15, 2009 :
Application No. 09/981,124 : ON APPLICATION FOR
Filed: October 17, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 72242-AB/JPW/ :
GJG/LCM :

This is in response to the PETITION TO CORRECT PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE filed July 29, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is five hundred eighty (580) days, not zero (0) 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**.

The instant petition was filed on July 29, 2009, prior to the September 15, 2009 issuance of the patent. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office could not make a determination on the correctness of the patent term adjustment until the patent 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.

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).

The Office acknowledges receipt of a Renewed Petition to Correct Patent Term Adjustment (PTA) Indicated in Notice of Allowance, filed November 6, 2009. This request will be considered under 37 CFR 1.705(d) in due course.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK NY 10112

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APR 20 2010

OFFICE OF PETITIONS

In re Patent of Green et al.	: DECISION ON REQUEST
Patent No. 7,589,253	: FOR
Issued: September 15, 2009	: RECONSIDERATION
Application No. 09/981,124	: OF PATENT TERM
Filed: October 17, 2001	: ADJUSTMENT AND NOTICE
Atty Docket No. 72242-AB/JPW/ GJG/LCM	: OF INTENT TO ISSUE : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 6, 2009, 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 five hundred seventy-eight (578) 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 five hundred seventy-eight (578) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 578 days, which is the sum of 449 days of A delay and 841 days of B delay reduced by 712 days of patentees' delay.

The Office concurs the period of A delay is 449 days. The Office concurs the period of patentees' delay is 712 days.

The Office does not concur with patentees' assertion the period of B delay is 841 days. In calculating the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), patentees indicate the period of delay begins on October 18, 2004, the day after the date that is three years after the date on which the application

was filed under 35 U.S.C. 111(a), and ends on February 5, 2007, the date a request for continued examination (RCE) was filed.

The period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period. See 35 U.S.C. 154(b)(1)(B)(i). When excluding time from the period of B delay, patentees failed to exclude the date the RCE was filed. The over three year period began on October 18, 2004 and ended on February 4, 2007, the day before the RCE was filed, and is 840, (not 841) days.

Per 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." In other words, B delay in this case does not include the 73 days consumed by appellate review beginning on November 24, 2006, the date the Notice of Appeal was filed and ending on February 4, 2007, the date before patentees withdrew the appeal by filing a RCE.

In this case, B delay is 767 days, which is 840 days reduced by 73 days of appellate review.

Based on the prior discussion, the correct patent term adjustment is 504 days, which is the sum of 449 days A delay and 767 of B delay and reduced by 712 days for patentees' delay.

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 37 CFR § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred four (504)** days.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,253 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Green 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 U.S.C. 154(b) by 177 days

Delete the phrase "by 177 days" and insert – by 504 days--

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)
7039113	2006-05-02	09981143	2001-10-16	US010519US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David L. Schaeffer/	Date (YYYY-MM-DD)	2010-07-16
Name	David L. Schaeffer	Registration Number	32716

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. 7039113
Issue Date: May 2,2006
Application No. 09981143
Filed: October 16,2001
Attorney Docket No. US 010519

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

This is a decision on the electronic petition, filed July 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 16,2010 . 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
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1200
CHICAGO IL 60604

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
David H. Dacosta et al :
Application No. 09/981,145 :
Filed: October 16, 2001 :
Attorney Docket No. CU-2684-VE :

ON PETITION

This is a decision on the petition, filed September 22, 2004, and supplemented on September 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the file will be forwarded to Technology Center AU 2856 to 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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VANGELIS ECONOMOU
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200 W. MADISON ST.
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
David H. Dacosta et al :
Application No. 09/981,145 :
Filed: October 16, 2001 :
Attorney Docket No. 40199-10010 :

ON PETITION

This is a decision on the petition, filed September 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2856 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
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Paper No. _____

Date : October 3, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David H. Dacosta et al
Application No. :09/981,145
Filed :October 16, 2001

The above-identified application has been assigned Patent No. 6,952,958 and an issue date of October 11, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 11, 2005:

"All reference to Patent No. 6,952,958 to David H. Dacosta et al of New York for FUEL GAUGE FOR HYDROGEN STORAGE MEDIA appearing in the Official Gazette of October 11, 2005 should be deleted since no patent was granted."

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

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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SUITE 1200
CHICAGO IL 60604

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
David H. Dacosta et al :
Application No. 09/981,145 : ON PETITION
Filed: October 16, 2001 :
Attorney Docket No. CU-2684-VE :

This is a decision on the petition, filed September 22, 2004, and supplemented on September 24, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of petitions, the file will be forwarded to Technology Center AU 2856 to 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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CURAGEN CORPORATION
555 LONG WHARF DRIVE
NEW HAVEN, CT 06551

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OFFICE OF PETITIONS

In re Application of	:	
Xiaojia Guo	:	
Application No. 09/981,151	:	ON PETITION
Filed: October 16, 2001	:	
Attorney Docket No. 21402-168 (CURA 468)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 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 matter is being forwarded to Technology Center AU 1634 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

IP Department of Piper Rudnick LLP
3400 Two Logan Square
18th and Arch Streets
Philadelphia, Pennsylvania 19103

In re Application of: Adrianne Lewis)
Application No. 09/981,156)
Filed: October 17, 2001)
For: SYSTEM AND METHOD OF ADVERTISING ON A COMPUTER NETWORK)

DECISION ON PETITION UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision on the petition, filed April 2, 2003, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. §1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R.§1.117(h) and a statement under 37 C.F.R. §1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. A fee under 37 C.F.R. for such a petition is required.

In a telephone conversation (on April 22, 2003) with the undersigned, Applicant's representative, Paul Taufer, explained that the relevant results of the search are of record in the file with the previously filed information disclosure statements.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**. The application file is being forwarded to the Examiner of Record for expedited examination.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

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OFFICE OF PETITIONS

In re Application of :
Dispensa, Ramahi, Montross, Woods, Denny, Bellinder, Moura, McGinniss, and Perlow :
Application No.: 09/981,193 :
Filed: October 17, 2001 :
Attorney Docket No: 1562 :
For: BROADBAND WIRELESS COMMUNICATIONS USING MULTIPLE CONTENTION CHANNELS :

DECISION ACCORDING STATUS UNDER RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 11, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on December 11, 2001, indicating that petitioner did not file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth an extendable period of reply of two months from the date it was mailed. Petitioner filed the petition under 37 CFR 1.47(a) on July 11, 2002, along with a request for an extension of time within the fifth month.

Through the instant renewed petition petitioner established that, although the inventor Dispensa was mailed the complete application papers (specification, abstract, claims, drawings, and assignment), he has provided no response and is deemed to have constructively refused to join the above-cited application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors 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 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
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Paper No. 7

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Satoshi Hasegawa
Application No. 09/981,207
Filed: October 17, 2001
Attorney Docket No. 01658/LH

: DECISION DISMISSING
: PETITION

This is a decision on the petition filed March 15, 2002 (certificate of mail date), requesting that the above-identified application be accorded a filing date of October 17, 2001, with pages 3, 12 and 32 as a part of the original disclosure of the application.

The application was filed on October 17, 2001. However, on March 8, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s)" stating that the application had been accorded an October 17, 2001 filing date, but that pages 3, 12 and 32 of the specification appeared to have been omitted.[1]

In response, on March 15, 2002 (certificate of mail date), a pages 3, 12 and 32 of the specification was filed accompanied by the present petition. Petitioner argues that pages 3, 12 and 32 were filed on January 7, 2002 (certificate of mail date December 13, 2001). In support, the petition, which is signed by a registered practitioner, includes a statement by a Secretary, Sharon Portnoy, that 34 pages of the specification, including pages 3, 12 and 32 were part of the application as originally filed.

The argument and evidence presented are not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official record reveals that no pages 3, 12 and 32 were filed with the original application papers. Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims, and abstract), number of claims, number of sheets of drawings, and number of pages of oath/declaration. The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. As petitioner has provided no convincing evidence that drawing pages 3, 12 and 32 were filed in the USPTO on January 7, 2002 (certificate of mail date December 13, 2001), the petition must be dismissed.

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[1]A Notice to File Missing Parts was mailed November 16, 2001 requiring the filing of the English Translation of the application and substitute drawings in compliance with 37 CFR 1.84. In response, on January 7, 2002 (certificate of mail date December 13, 2001), an English Translation and Formal Drawings, *inter alia*, were filed, which necessitated the March 8, 2002 mailing of the Notice of Omitted Items.

The petition is **dismissed.**

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

The application is being forwarded to Initial Patent Examination Division for further processing with a filing date of October 17, 2001, and for an indication on the bib-data sheet that pages 3, 12 and 32 of the specification were not present on filing.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
767 THIRD AVENUE
25TH FLOOR
NEW YORK, NY 10017-2023

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NOV 0 8 2002

OFFICE OF PETITIONS

In re Application of
Satoshi Hasegawa
Application No. 09/981,207
Filed: October 17, 2001
Attorney Docket No. 01658/LH

: ON PETITION

This is a decision on the renewed petition filed by facsimile transmission August 29, 2002.

The renewed petition is **Granted**.

The application was filed October 17, 2001. However, on March 8, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Item(s)" stating that the application had been accorded an October 17, 2001 filing date, but that pages 3, 12 and 32 of the specification appeared to have been omitted.[1] In response, on March 15, 2002 (certificate of mail date), pages 3, 12 and 32 of the specification were filed accompanied by a petition in which petitioner argued that pages 3, 12 and 32 were filed on January 7, 2002 (certificate of mail date December 13, 2001). In support thereof, the petition, signed by a registered practitioner, included a statement by a Secretary, Sharon Portnoy, that 34 pages of the specification, including pages 3, 12 and 32 were part of the application as originally filed.

The petition filed March 15, 2002 (certificate of mail date), requesting that the above-identified application be accorded a filing date of October 17, 2001, with pages 3, 12 and 32 as a part of the original disclosure of the application was dismissed in a decision dated August 5, 2002.

The renewed petition contends that the March 15, 2002 petition also included a request for an extension of time within which to file the response to the Notice to File Missing Parts mailed November 16, 2001. The due date for the response to that Notice would

[1]A Notice to File Missing Parts was mailed November 16, 2001 requiring the filing of the English Translation of the application and substitute drawings in compliance with 37 CFR 1.84. In response, on January 7, 2002 (certificate of mail date December 13, 2001), an English Translation and Formal Drawings, *inter alia*, were filed, which necessitated the March 8, 2002 mailing of the Notice of Omitted Items.

have been January 16, 2002. A properly requested extension of time would have extended the due date to March 16, 2002.

In view of the petition filed March 15, 2002 and the renewed petition filed with a request for an extension of time, pages 3, 12 and 32 of the specification filed March 15, 2002 will be accepted as responsive to the Notice to File Missing Parts. Therein, the Notice of Omitted Items mailed March 8, 2002 is **Vacated**.

As authorized, petitioner's deposit account no. 06-1378 will be charged in the amount of $400.00 for a two month extension of time.

The application is being forwarded to Initial Patent Examination Division for further processing with a filing date of October 17, 2001, and for an indication on the bib-data sheet that the 34 page specification was timely filed and complete including pages 3, 12 and 32.

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

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
William A. Linton et al
Application No. 09/981,219
Filed: October 16, 2001
Attorney Docket No.
03129.000100/16026-9263-01

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

This is a decision on the petition, filed January 19, 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 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 13

DAVID R. PRICE
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-4108

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OCT 1 0 2003

OFFICE OF PETITIONS

In re Application of
William M. Warner et al
Application No. 09/981,223
Filed: October 17, 2001
Attorney Docket No. 081276-9079-00

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 21, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 18

DAVID R. PRICE
MICHAEL BEST & FRIEDRICH LLP
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MILWAUKEE WI 53202-4108

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of :
William M. Warner et al :
Application No. 09/981,223 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. 081276-9079-00 :

This is a decision on the petition, filed June 14, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3747 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Attention: David L. Provence
Mueting, Raasch, & Gebhardt, P.A.
P.O. Box 581415
Minneapolis MN 55458-1415

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OCT 1 0 2003

OFFICE OF PETITIONS

Applicant: Watowich et al.
Appl. No.: 09/981,286
Filing Date: October 15, 2001
Title: DRUG DISCOVERY METHODS
Attorney Docket No.: 265.00260101
Pub. No.: US 2002/0192799 A1
Pub. Date: December 19, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on February 4, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication the sequence listing in paragraph 0059 did not print correctly in the column, as it overflows into the next column.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the in the sequence listing overflowing into the next column in paragraph 0059 is an Office error, but it is a minor typographical error which is understandable as such from reading the sentence and/or paragraph in which the term is used, as terms are not read in a vacuum and the information was correctly printed. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The 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)

[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).

will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1631 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TIMOTHY J. MARTIN PC
9250 W. 5TH AVENUE, SUITE 200
LAKEWOOD, CO 80226

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Mitchell A. Avery :
Application No. 09/981,312 : DECISION GRANTING PETITION
Filed: October 15, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1786 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 13, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), 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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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK KRULL
P O BOX 7198
BEND, OR 97708

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Stearns :
Application No. 09/981,315 : DECISION GRANTING PETITION
Filed: October 16, 2001 : UNDER 37 CFR 1.137(b)
For: EXERCISE METHODS AND APPARATUS :

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2004, 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 August 10, 2004, as required by the Notice of Allowance and Fee(s) Due, mailed May 10, 2004. A Notice of Abandonment was mailed on September 14, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 10, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3217.

This matter is being referred to Publishing Division.

Frances Hicks for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK A. KRULL
P.O. BOX 7198
BEND, OR 97708

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Kenneth W. **STEARNS** :
Application No. 09/981,315 : DECISION ON PETITION
Filed: October 16, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 27, 2007, to revive the above-identified application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Petitioner states that a Notice of abandonment was mailed indicating that the above-identified patent application was abandoned for failure to respond to an office action mailed on February 21, 2007. A review of the file record discloses that no office action was mailed on February 21, 2007. The record indicates the above application was issued into patent no. 6,923,745 on August 2, 2005.

In view of the above, the petition is **DISMISSED** as moot.

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 Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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JUL 12 2002

OFFICE OF PETITIONS

TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA, GA 30308-2216

In re Application of
Wen, et al.
Application No. 09/981,317
Filed: October 16, 2001
Attorney Docket No.: INVE25US
For: TRANSFER OF AN INTERNET CHAT SESSION BETWEEN SERVERS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed March 5, 2002.

Petitioner has shown that inventor Sam Wen has 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 Charles L. Warner sufficiently establishes that the inventor received the application papers and did not respond to the request to execute the declaration.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SAM WEN
177 CHAPIN C2031
STONY BROOK, NY 11790

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JUL 12 2002

OFFICE OF PETITIONS

In re Application of :
Wen, et al. :
Application No. 09/981,317 : LETTER
Filed: October 16, 2001 :
Attorney Docket No.: INVE25US :
For: TRANSFER OF AN INTERNET CHAT :
SESSION BETWEEN SERVERS :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

CC: TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET, NE
ATLANTA, GA 30308-2216

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Troutman Sanders LLP
Bank of America Plaza, Suite 5200
600 Peachtree Street, NE
Atlanta, GA 30308-2216

MAILED

JUL 22 2004

Technology Center 2100

In re Application of:
Sam WEN, et al.
Application No. 09/981,317
Filed: October 16, 2001
For: TRANSFER OF AN INTERNET CHAT SESSION BETWEEN SERVERS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed September 4, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on January 23, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Kilpatrick Stockton LLP as the attorney of record of the instant application. The Power of Attorney of January 23, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Kilpatrick Stockton LLP.

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

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

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

cc: John S. Pratt, Esq.
Kilpatrick Stockton LLP
1100 Peachtree St.
Suite 2800
Atlanta, GA 30309

UNITED STATES 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. 20050218

In re Patent No. 6,786,920
Issue Date: September 7, 2004
Appl. No.: 09/981,337
Filed: October 16, 2001
For: RADIALLY EXPANDABLE STENTED TUBULAR PTFE GRAFTS

DECISION DISMISSING PETITION
37 CFR 1.324

This is a decision on the request under 37 CFR 1.48 filed July 23, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks item(s) (2) and (3).

Corrine M. McDermott

Corrine M McDermott
Supervisory Patent Examiner
Art Unit 3738
Patent Examining Group 3700

Edwards Lifesciences LLC
Law Department
One Edwards Way
Irvinel, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 16 2004

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

In re Application of	:
Ali A. Alwattari et al	:
Serial No.: 09/981,345	: PETITION DECISION
Filed: October 17, 2001	:
Attorney Docket No.: 8586	:

This is in response to the petition under 37 CFR 1.181, filed October 28, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on March 12, 2003, setting a three month shortened statutory period for. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed October 14, 2003. Applicants state that a reply was filed June 25, 2003, including a request and fee for a one month extension of time, and provides evidence of Office receipt by means of an Office date stamped return poistcard dated June 27, 2003. The reply has not been located and the copy provided with the petition will be used in lieu thereof. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

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

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 15 2010

OFFICE OF PETITIONS

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

In re Patent No. 7,381,454 :
Issue Date: June 3, 2008 :
Application No. 08/981,360 : ON PETITION
Filed: December 18, 1997 :
Attorney Docket No. U 011574 - O :

This is a decision on the petition filed December 2, 2009, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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MAR 15 2010

OFFICE OF PETITIONS

LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

In re Patent No. 7,381,454	:	
Issue Date: June 3, 2008	:	
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Filed: December 18, 1997	:	
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The petition is **GRANTED**.

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Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Shell S. Simpson :
Application No. 09/981,392 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. 10007682-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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 28, 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) was obtained. Accordingly, the application became abandoned on July 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Appeal Brief; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being forward to Technology Center 2155 for appropriate action on the Notice of Appeal and Appeal Brief.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Paper No. 20

Leon R. Yankwich, Esq.
YANKWICH & ASSOCIATES
201 Broadway
Cambridge MA 02139

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MAY 28 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Schubart et al. :
Application No.09/981,397 :
Filed: October 16, 2001 :
Attorney Docket No.AXM-004-14560 :

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed August 25, 2003 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 **DISMISSED AS MOOT**.

A petition 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.

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 prior-filed applications.

The instant pending nonprovisional application was filed on October 16, 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 unsigned oath or declaration present on filing.

The current procedure where a claim for priority under 37 CFR §§ 1.78(a)(3) and 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)(2)(ii) and 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)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority of the prior-filed application in the oath or declarationr filed with the application, as shown by its inclusion on the filing receipt.

In view of the above, the $1300 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-1820. 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 the Examiner of Technology Center AU 1646 for appropriate action on the amendment filed November 20, 2003, including consideration of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for benefit of the prior-filed application.

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

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/981387 | 2 Serial/Patent # 5/27/04

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	17	8/25/03	$ 1302
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1302

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [X] Credit Deposit A/C #:

9 50--0268

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation): Pet NOT needed

11 REFUND REQUESTED BY: [signature]

TYPED/PRINTED NAME: _____ TITLE: _____

SIGNATURE: _____ PHONE: _____

OFFICE: _____

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 5/28/04

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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Paper No. 9

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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APR 16 2004

OFFICE OF PETITIONS

In re Application of :
Beers, et al. :
Application No. 09/981,399 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. ORT-1514 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 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 15, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 16, 2002.

The file 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) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 16

Peacock Myers and Adams
PO Box 26927
Albuquerque, NM 87125-6927

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JUL 22 2003

OFFICE OF PETITIONS

In re Application of :
George H. Kitchen III :DECISION GRANTING PETITION
Application No. 09/981,411 :UNDER 37 CFR 1.137(B)
Filed: October 16, 2001 :
Attorney Docket No. 70008-9101 :

This is a decision on the petition filed May 30, 2003, and supplemented on June 24, 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 **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 15, 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(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center AU 1714 for processing the Request for Continued Examination (RCE) under 37 CFR 1.114 filed on July 3, 2003.

Any inquiries concerning this decision may 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

Frances Hicks
Petitions Examiner

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DEC 17 2003

OFFICE OF PETITIONS

Robert L. Stearns
39400 Woodward Avenue
West Bloomfield, MI 48304-5151

ON PETITION

In re Application of
Carmo Riberio et al.
Application No. 09/981,414
Filed: October 17, 2001
Attorney Docket No. 71024-209

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2003, 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 February 6, 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 April 7, 2003. See MPEP 1215.04.

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

The application file is being forwarded to Technology Center AU 3745 for processing the Request for Continued Examination pursuant to 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
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Robert L. Stearns
5291 Colony Drive North
Saginaw, MI 48603

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P.O. Box 1450
Alexandria, VA 22313-1450
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HIGGS, FLETCHER & MACK LLP
2600 FIRST NATIONAL BANK BUILDING
401 WEST "A" STREET
SAN DIEGO CA 92101-7910

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MAR 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeremy C.A. Procter	:	
Application No. 09/981,428	:	DECISION GRANTING PETITION
Filed: October 16, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 101159-26402	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and RCE; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office letter mailed January 30, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3632.

Karen Creasy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/3/09 Paper No.: —

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/981431 Patent No.: 7468105 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

SPE 1792 Art Unit

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6480277	2002-11-12	09981442	2001-10-18	99-002

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	/Grant H. Peters/	Date (YYYY-MM-DD)	2008-09-17
Name	Grant H. Peters	Registration Number	35977

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. 6480277
Issue Date: November 12,2002
Application No. 09981442
Filed: October 18,2001
Attorney Docket No. 99-002

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

This is a decision on the electronic petition, filed September 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 September 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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6391 SPRINT PARKWAY
OVERLAND PARK, KANSAS 66251-2100

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JUN 01 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Douglas Johnson :
Application No. 09/981,461 :
Filed: October 17, 2001 :
Attorney Docket No. 00,284 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 16, 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 October 17, 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 May 20, 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 Irvin Dingle at (703) 306-5684.

The application will be forwarded to Technology Center AU 2643 for further processing.

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

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222 N LASALLE STREET
CHICAGO, IL 60601

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Edward G. Callway :
Application No. 09/981,484 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. 00100.01.0069 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

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

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

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OFFICE OF PETITIONS

In re Application of :
Ryan Robertson, et al. :
Application No. 09/981,510 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No.: 035451-0143 :

This is a decision on the petition, filed September 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 1, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2617 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Date : September 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Ryan Robertson, et al.
Application No. : 09/981,510
Filed : October 17, 2001

The above-identified application has been assigned Patent No. 7,120,425 and an issue date of October 10, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 10, 2006:

"All reference to Patent No. 7,120,425 to RYAN ROBERTSON, ET AL. of WASHINGTON for USER INTERFACE-TECHNIQUE FOR MANAGING AN ACTIVE CALL appearing in the Official Gazette of October 10, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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OFFICE OF PETITIONS

In re Application of	:	LETTER REGARDING
Robertson et al.	:	PATENT TERM ADJUSTMENT
Application No. 09/981,510	:	and
Filed: October 17, 2001	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 035451-0143	:	CERTIFICATE OF CORRECTION

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed August 10, 2007. Patentees disclose that the 652 days of Patent Term Adjustment as indicated on the Issue Notification (and on the issued patent) may be incorrect.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred twenty-four (624) days.

On June 12, 2007, the above-identified application matured into U.S. Patent No. 7,231,208. The patent issued with a Patent Term Adjustment of 652 days. Patentees do not disclose a basis for their assertion that the patent term adjustment is incorrect.

Nonetheless, a review of the record confirms that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10). A Notice of Allowance was mailed on June 6, 2006. Patentees filed a Request for Continued Examination (RCE) and IDS on September 21, 2006. Prior to filing the RCE, applicant paid the Issue Fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS after the mailing of the Notice of Allowance on June 6,

2006 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 28 days, counting the number of days in the period beginning on September 21, 2006 and ending on October 18, 2006, the date of mailing of the Notice of Allowance in response.

In view thereof, the patent term adjustment indicated in the patent should be six hundred twenty-four (624) days.

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

The 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 **six hundred twenty-four (624)** 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

Enclosures: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,231,208 B2

DATED : **June 12, 2007**

INVENTOR(S) : Robertson 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 652 days

Delete the phrase "by 652 days" and insert – by 624 days--

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JJGJr: 07-02

Paper No.8

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of
Burbank, et al.
Application No. 09/981,525
Filed: 16 October, 2001
Attorney Docket No. 9619-1031

: DECISION ON PETITION

This is a decision on the petition filed on 15 April, 2002, styled "Request for Corrected Filing Receipt," requesting that the filing receipt for the application corrected to reflect:

- the presence upon filing of three (3) independent claims (rather than the two (2) stated by the Office);
- a fourth-named inventor, **Martin V. Shabaz, Lake Forest, CA**; and
- the inclusion of a priority claim to Provisional Application No. 60/076,973 filed on 3 March, 1998;[1]

said petition considered under 37 C.F.R. §1.53(b).[2]

---

[1] Although not express in the petition, the demand for inclusion of the priority to the provisional application is clear from the hand-written red-inked correction to that effect present on the copy of the filing receipt submitted with the petition--said correction being of the same form as those marked with reference to the other two corrections sought as detailed hereinabove.

[2] The regulations at 37 C.F.R. §1.53 provide, in pertinent part:

§ 1.53 Application number, filing date, and completion of application.

(a) *Application number.* Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

(b) *Application filing requirements - Nonprovisional application.* The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to §1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

* * *

(e) *Failure to meet filing date requirements.*

(1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a

For the reasons set forth below, the petition is **GRANTED in part and DISMISSED in part**.[3]

Petitioner alleges that the failure of the filing receipt to reflect:

- a fourth named inventor, Martin V. Shabaz, Lake Forest, CA;
- the presence upon filing of three (3) independent claims (rather than the two (2) stated by the Office); and
- the inclusion of a priority claim to Provisional Application No. 60/076,973 (filed on 3 March, 1998);

are errors of the Office.

---

filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.

(2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

(3) If an applicant is notified of a filing error pursuant to paragraph (e)(1) of this section, but fails to correct the filing error within the given time period or otherwise timely (§ 1.181(f)) take action pursuant to this paragraph, proceedings in the application will be considered terminated. Where proceedings in an application are terminated pursuant to this paragraph, the application may be disposed of, and any filing fees, less the handling fee set forth in § 1.21(n), will be refunded.

(f) *Completion of application subsequent to filing— nonprovisional (including continued prosecution or reissue) application.*

(1) If an application which has been accorded a filing date pursuant to paragraph (b) or (d) of this section does not include the basic filing fee, or if an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include an oath or declaration by the applicant pursuant to §§ 1.63,1.162 or § 1.175, and applicant has provided a correspondence address (§ 1.33(a)), applicant will be notified and given a period of time within which to pay the filing fee, file an oath or declaration in an application under paragraph (b) of this section, and pay the surcharge required by § 1.16(e) to avoid abandonment.

(2) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the basic filing fee or an oath or declaration by the applicant pursuant to §§ 1.63, 1.162 or §1.175, and applicant has not provided a correspondence address (§ 1.33(a)), applicant has two months from the filing date of the application within which to pay the basic filing fee, file an oath or declaration, and pay the surcharge required by § 1.16(e) to avoid abandonment.

(3) This paragraph applies to continuation or divisional applications under paragraphs (b) or (d) of this section and to continuation-in-part applications under paragraph (b) of this section.

(4) See § 1.63(d) concerning the submission of a copy of the oath or declaration from the prior application for a continuation or divisional application under paragraph (b) of this section.

(5) If applicant does not pay one of the basic filing or the processing and retention fees (§ 1.21(l)) during the pendency of the application, the Office may dispose of the application.

* * *

(h) *Subsequent treatment of application - Nonprovisional (including continued prosecution) application.* An application for a patent filed under paragraphs (b) or (d) of this section will not be placed on the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(i) *Subsequent treatment of application - Provisional application.* A provisional application for a patent filed under paragraph (c) of this section will not be placed on the files for examination and will become abandoned no later than twelve months after its filing date pursuant to 35 U.S.C. 111(b)(1).

* * *

[48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; paras. (b) and (d), 49 Fed. Reg. 554, Jan. 4, 1984, effective Apr. 1, 1984; para. (c), 50 Fed. Reg. 31826, Aug. 6, 1985, effective Oct. 5, 1985; paras. (c) and (d), 53 Fed. Reg. 47808, Nov. 28, 1988, effective Jan. 1, 1989; paras. (b) and (c), 54 Fed. Reg. 47518, Nov. 15, 1989, effective Jan. 16, 1990; paras. (a)-(e) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 Fed. Reg. 53131, Oct. 10 ,1997, effective Dec. 1, 1997; para. (d) revised, 63 Fed. Reg. 5734, Feb. 4, 1998, effective Feb. 4, 1998 (adopted as final, 63 Fed. Reg. 36184, Jul. 2, 1998); paras. (c)(3), (c)(4) and (d) revised, 65 Fed. Reg. 14865, Mar. 20, 2000, effective May 29, 2000 (paras. (c)(4) and (d) adopted as final, 65 Fed. Reg. 50092, Aug. 16, 2000); para. (c)(3) revised, 65 Fed. Reg. 50092, Aug. 16, 2000, effective Aug. 16, 2000; paras. (c)(1), (c)(2), (d)(4), (e)(2), (f), and (g) revised and para. (d)(10) added, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (c)(4) revised, 65 Fed. Reg. 78958, Dec. 18, 2000]

[3] Pursuant to Petitioner's authorization, Deposit Account 12-0201 (9619.1031) is charged $130.00 for the petition fee herein.

The record reflects that:

- the instant application was filed on 16 October, 2001, with three (3) independent claims;

- the instant application was filed on 16 October, 2001, with a "Combined Declaration and Power of Attorney for Utility Patent Application," (oath or declaration) which document purports to contain three (3) pages signed by the inventors; however,

  --the copy of the oath or declaration filed with the instant application contained only two (2) of the three (3) pages, while a portion of the third page (which seems to include a reference to the fourth named inventor, Martin V. Shabaz, Lake Forest, CA) appears in the upper left corner of "Page 2 of 3" and the full third page was not included on filing; and

  --while Petitioner filed with the instant petition a copy of the oath or declaration and a copy of the receipt card date stamped by the Office:

    --the copy of the oath or declaration contained the identical reference (as described above) on the upper left corner of "Page 2 of 3," although the third page on this occasion was attached; and

    --the receipt card fails to detail the number of pages contained in the oath or declaration enclosed at and received by the Office upon filing;

- the reference and/or claim for priority to Provisional Application No. 60/076,973 (filed on 3 March, 1998) is contained nowhere in the record herein until Petitioner's attempt to amend filed on 11 April, 2002, over a 26 March, 2002, certificate of mailing--which certificate date is more than a month after the cut-off date specified under 37 C.F.R. §1.78.[4]

---

[4] The regulations at 37 C.F.R. §1.78 provide, in pertinent part:

§1.78 Claiming benefit of earlier filing date and cross-references to other applications.

* * *

(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a),this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b)or (f)in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6)of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e)to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a)before November 29,2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application

From the foregoing review of the record it appears clear, then, that the application:

- contained upon filing three independent claims;
- did not contain either:

  --the signed oath or declaration of the fourth named inventor ; or

  --the listing of the priority claim to the provisional application (which cannot be added in this context).[5]

In light of the foregoing, the petition herein is:

- **granted in part** to the extent that the instant application is forwarded to the Office of Initial Patent Examination (OIPE) with instructions to issue a corrected filing receipt:

  --setting forth the number of independent claims as three (3); and

  --listing the fourth-named inventor (now evidenced by the copy of the oath or declaration filed with the petition on 11 April, 2002) as **Martin V. Shabaz, Lake Forest, CA**; and

- **dismissed in part** to the extent that the claim for priority to Provisional Application No. 60/076,973 (filed on 3 March, 1998) shall not be entered as a result of the instant petition.

---

filed under 35 U.S.C. 363 before November 29,2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§1.76),or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii)of this section, the claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section to the prior-filed provisional 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)(5)(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.

* * *

[5] See: Dart v. Banner, 636 F.2d 684, 207 USPQ 273 (CADC 1980).

The application file will then be forwarded for processing as necessary.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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Paper No: 10

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JUN 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Burbank, et al. :
Application No. 09/981,525 : DECISION ON PETITION
Filed: 16 October, 2001 :
Attorney Docket No. 9619-1031 :

This is a decision on the petition filed on 25 September, 2002, seeking a claim for priority under a preliminary amendment to Provisional Application No. 60/076,973 filed on 3 March, 1998[1]--said petition considered under:

- 37 C.F.R. §1.53(b);[2] and

---

[1] Although not express in the petition, the demand for inclusion of the priority to the provisional application is clear from the hand-written red-inked correction to that effect present on the copy of the filing receipt submitted with the petition--said correction being of the same form as those marked with reference to the other two corrections sought as detailed hereinabove.

[2] The regulations at 37 C.F.R. §1.53 provide, in pertinent part:

§ 1.53 Application number, filing date, and completion of application.

(a) *Application number.* Any papers received in the Patent and Trademark Office which purport to be an application for a patent will be assigned an application number for identification purposes.

(b) *Application filing requirements - Nonprovisional application.* The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to § 1.71 and at least one claim pursuant to §1.75, and any drawing required by § 1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and § 1.78(a).

(1) A continuation or divisional application that names as inventors the same or fewer than all of the inventors named in the prior application may be filed under this paragraph or paragraph (d) of this section.

(2) A continuation-in-part application (which may disclose and claim subject matter not disclosed in the prior application) or a continuation or divisional application naming an inventor not named in the prior application must be filed under this paragraph.

* * *

(e) *Failure to meet filing date requirements.*

(1) If an application deposited under paragraph (b), (c), or (d) of this section does not meet the requirements of such paragraph to be entitled to a filing date, applicant will be so notified, if a correspondence address has been provided, and given a time period within which to correct the filing error.

(2) Any request for review of a notification pursuant to paragraph (e)(1) of this section, or a notification that the original application papers lack a portion of the specification or drawing(s), must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(h). In

- under 37 C.F.R. §1.78.[3]

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the absence of a timely (§ 1.181(f)) petition pursuant to this paragraph, the filing date of an application in which the applicant was notified of a filing error pursuant to paragraph (e)(1) of this section will be the date the filing error is corrected.

(3) If an applicant is notified of a filing error pursuant to paragraph (e)(1) of this section, but fails to correct the filing error within the given time period or otherwise timely (§ 1.181(f)) take action pursuant to this paragraph, proceedings in the application will be considered terminated. Where proceedings in an application are terminated pursuant to this paragraph, the application may be disposed of, and any filing fees, less the handling fee set forth in § 1.21(n), will be refunded.

(f) *Completion of application subsequent to filing— nonprovisional (including continued prosecution or reissue) applicatio*n.

(1) If an application which has been accorded a filing date pursuant to paragraph (b) or (d) of this section does not include the basic filing fee, or if an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include an oath or declaration by the applicant pursuant to §§ 1.63,1.162 or § 1.175, and applicant has provided a correspondence address (§ 1.33(a)), applicant will be notified and given a period of time within which to pay the filing fee, file an oath or declaration in an application under paragraph (b) of this section, and pay the surcharge required by § 1.16(e) to avoid abandonment.

(2) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the basic filing fee or an oath or declaration by the applicant pursuant to §§ 1.63, 1.162 or §1.175, and applicant has not provided a correspondence address (§ 1.33(a)), applicant has two months from the filing date of the application within which to pay the basic filing fee, file an oath or declaration, and pay the surcharge required by § 1.16(e) to avoid abandonment.

(3) This paragraph applies to continuation or divisional applications under paragraphs (b) or (d) of this section and to continuation-in-part applications under paragraph (b) of this section.

(4) See § 1.63(d) concerning the submission of a copy of the oath or declaration from the prior application for a continuation or divisional application under paragraph (b) of this section.

(5) If applicant does not pay one of the basic filing or the processing and retention fees (§ 1.21(l)) during the pendency of the application, the Office may dispose of the application.

* * *

(h) *Subsequent treatment of application - Nonprovisional (including continued prosecution) applicatio*n. An application for a patent filed under paragraphs (b) or (d) of this section will not be placed on the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(l) *Subsequent treatment of application - Provisional applicatio*n. A provisional application for a patent filed under paragraph (c) of this section will not be placed on the files for examination and will become abandoned no later than twelve months after its filing date pursuant to 35 U.S.C. 111(b)(1).

* * *

[48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; paras. (b) and (d), 49 Fed. Reg. 554, Jan. 4, 1984, effective Apr. 1, 1984; para. (c), 50 Fed. Reg. 31826, Aug. 6, 1985, effective Oct. 5, 1985; paras. (c) and (d), 53 Fed. Reg. 47808, Nov. 28, 1988, effective Jan. 1, 1989; paras. (b) and (c), 54 Fed. Reg. 47518, Nov. 15, 1989, effective Jan. 16, 1990; paras. (a)-(e) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 Fed. Reg. 53131, Oct. 10 ,1997, effective Dec. 1, 1997; para. (d) revised, 63 Fed. Reg. 5734, Feb. 4, 1998, effective Feb. 4, 1998 (adopted as final, 63 Fed. Reg. 36184, Jul. 2, 1998); paras. (c)(3), (c)(4) and (d) revised, 65 Fed. Reg. 14865, Mar. 20, 2000, effective May 29, 2000 (paras. (c)(4) and (d) adopted as final, 65 Fed. Reg. 50092, Aug. 16, 2000); para. (c)(3) revised, 65 Fed. Reg. 50092, Aug. 16, 2000, effective Aug. 16, 2000; paras. (c)(1), (c)(2), (d)(4), (e)(2), (f), and (g) revised and para. (d)(10) added, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (c)(4) revised, 65 Fed. Reg. 78958, Dec. 18, 2000]

[3] The regulations at 37 C.F.R. §1.78 provide, in pertinent part:

§1.78 Claiming benefit of earlier filing date and cross-references to other applications.

* * *

(a)(5)(I) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a),this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b)or (f)in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6)of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e)to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a)before November 29,2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29,2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application

The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition:

- under 37 C.F.R. §1.53(b) is **DISMISSED**; and
- under 37 C.F.R. §1.78 is **DISMISSED**.

The record reflects that:

- the instant application was filed on 16 October, 2001;
- the reference and/or claim for priority to Provisional Application No. 60/076,973 (filed on 3 March, 1998) is contained nowhere in the record herein until Petitioner's attempt to amend filed on 11 April, 2002, over a 26 March, 2002, certificate of mailing--which certificate date is more than a month after the cut-off date specified under 37 C.F.R. §1.78.[4]

---

data sheet (§1.76),or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii)of this section, the claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application must be accompanied by:

(I) The reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section to the prior-filed provisional 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)(5)(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.

* * *

[4] The regulations at 37 C.F.R. §1.78 provide, in pertinent part:

§1.78 Claiming benefit of earlier filing date and cross-references to other applications.

* * *

(a)(5)(I) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a),this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b)or (f)in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph(a)(6)of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e)to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a)before November 29,2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29,2000.

Petitioner first sought entry of the claim for priority to the provisional application by way of his 15 April, 2002, "Request for a Corrected Filing Receipt."

In the decision dismissing in part his request, Petitioner was directed to the provisions of 37 C.F.R. §1.78, which are controlling here.

Petitioner has failed to pay the fee specified under the provisions of 37 C.F.R. §1.78.

Once again, Petitioner is directed to the regulations at 37 C.F.R. §1.78--specifically those at 37 C.F.R. §1.78(a)(6)[5] for his remedy.[6]

In light of the foregoing, the petition under:

- 37 C.F.R. §1.53(b) is **dismissed**; and
- under 37 C.F.R. §1.78 is **dismissed**; and

the claim for priority to Provisional Application No. 60/076,973 (filed on 3 March, 1998) **shall not be entered as a result of the instant petitions**.

This file is being returned to Technology Center 3700 for further processing in due course.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§1.76),or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii)of this section, the claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e)for the benefit of a prior filed provisional application must be accompanied by:

(I) The reference required by 35 U.S.C. 119(e)and paragraph (a)(5)of this section to the prior-filed provisional 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)(5)(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.

* * *

[5] See: Fn. 3.

[6] See: Dart v. Banner, 636 F.2d 684, 207 USPQ 273 (CADC 1980).

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
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Paper No. 14

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AUG 2 3 2004

OFFICE OF PETITIONS

In re Application of	:
Burbank et al.	:
Application No. 09/981,525	: DECISION ON PETITION
Filed: October 16, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. R0367.00401	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed September 3, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application. This decision also a corrects the decision mailed August 5, 2002, on the petition filed April 15, 2002 , where it granted petitioners request that the filing receipt indicate that Shabiz was a named inventor on filing.

The petition considered under 37 CFR 1.78(a)(6) is **DISMISSED**.

The petition filed April 15, 2002, where it requested that the filing receipt indicate that Shabiz was a named inventor herein on filing is **DISMISSED.**

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.78(A)(6):

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

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 16, 2001, which is not within twelve months of the filing date of the prior-filed provisional application, Application No.

60/076,973, which was filed on March 3, 1998, and for which priority is claimed. However, applicants also claim § 120 benefit of application No. 09/057,303 filed April 8, 1998, by way of application No. 09/196,125 filed November 20, 1998, which were filed within 12 months of the aforementioned provisional application. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioners' attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (D.C. Cir. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] excluding the provisional application from the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required. That is, the incorporation by reference statement may properly include both prior non provisional applications, which themselves were incorporated by reference on the filing date herein, but may not also properly include the provisional application. Applicants' contention that the incorporation by reference of the prior non provisional application, which itself incorporated the prior provisional application served to incorporate herein the provisional as well is not well taken. Firstly, such would constitute an improper "double incorporation," as the prior non provisisonal incorporated the provisional. See MPEP 608.01(p)(1)(A). Second, as the provisional application was not pending when the instant application was filed, it cannot properly be incorporated by reference. See Id. Third, petitioners tacitly admit that the incorporation by reference statement that was herein present on filing did not specifically refer to the provisional; indeed no mention was made of the

---

[1] *Note* 37 CFR 1.121

provisional application in question on the filing of the instant application. But see MPEP 201.06(c) under the caption "Incorporation by Reference"

AS TO THE CORRECTED FILING RECEIPT NAMING SHABAZ:

The decision of August 5, 2002, correctly noted (at 3) that applicants' itemized postcard receipt did not specifically itemize the number of pages contained in the orth or declaration, and that page 3 of 3 of the declaration, which identified Shabaz as a named inventor and, apparently, contained his signature was not herein present on filing. Indeed, the file contains a document prepared by the Office of Initial Patent Examination which indicates that, on filing, no page marked 3 of 3 was present. It necessarily follows that the petition erred where it indicated that a corrected filing receipt should show that Shabaz had in fact been named as an inventor herein on filing. That is, since applicants have not provided prima facie evidence that page 3 of 3 was present herein on filing, then the instant declaration did not comply with 37 CFR 1.63(d)(iv) which required that applicants file herein a copy of the declaration from the prior application which did name Shabaz as an inventor. As such, by operation of 37 CFR 1.41(a)(1), the 2 pages of the copy of the declaration from the parent file that were received on filing, and were signed by those three inventors, fixed the inventorship herein as: Burbank, Lubock, and Jones. See 37 CFR 1.41(a)(1); MPEP 210.03. It follows that applicants must present a petition under 37 CFR 1.48(a) and fee, to now add Shabaz as a named inventor. See MPEP 201.03. Accordingly, the decision of August 5, 2002 is **vacated** to the extent that it approved correction of the inventive entity in the absence of a grantable petition under 37 CFR 1.48 Likewise, the corrected fling receipt is **vacated** for the same reason, and for the additional reason that no decision on petition has yet approved applicants' belated claim for benefit of the provisional under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(6). A proper, corrected filing receipt is enclosed for petitioner's convenience.

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

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

By hand: Customer Window located at:
2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

Central Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Petitions Examiner Brian Hearn at (703) 305-1820.

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 02 2007

Fellers, Snider, et al
Bank One Tower
100 N. Broadway,
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Oklahoma City OK 73102-8820

In re Application of:
SLEZAK, ARNOLD G.
Serial No.: 09/981,556
Filed: Oct. 17, 2001
Docket: P1535US01
Title: METHOD TO REDUCE SERVO PATTERN RUNOUT ON A PREWRITTEN DISC

DECISION ON PETITION

This is a decision on the petition filed on Nov. 21, 2006 by which petitioner respectfully requests withdrawal of the restriction requirement made FINAL in the Office action dated Aug. 22, 2005 and that claims 25-33 be examined in this application. This petition is being considered pursuant to 37 CFR 1.144 and 37 CFR 1.181.

The petition is **DISMISSED**.

The record shows that:

1) On Apr. 22, 2005, the examiner issued a restriction requirement grouping claims 1-9 and 21-24 (Group I) to a process of making a disc drive, claims 25-29 (Group II) to a product of a disc drive, and claims 30-33 (Group III) to a product of a disc stack with a servo motor. Claims 10-20 remained withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.
2) On May 31, 2005, the petitioner made an election with traverse and elected the group including claims 1-9 and 21-24 drawn to a process of making a disc drive. In addition petitioner amended independent claims 1 and 25.
3) On Aug. 22, 2005, the examiner made the restriction requirement final in a non-final Office action.
4) On Nov. 22, 2005, the petitioner filed a response to the non-final Office action with no amendments to the claims. The petitioner again traversed the restriction requirement.

5) On Mar. 1, 2006, the examiner issued a second non-final Office action. In the second non-final Office action, the examiner maintained the finality of the restriction requirement dated Apr. 22, 2005.
6) On May 31, 2006, the petitioner filed an amendment to non-elected claim 30. The petitioner also argued that the restriction requirement was improper.
7) On Aug. 21, 2006, the examiner issued a final Office action. The examiner also presented arguments maintaining the finality of the restriction requirement dated Apr. 22, 2005.
8) On Oct. 20, 2006, the petitioner filed an amendment under 37 CFR 1.312 to claim 1 and also argued that the restriction requirement was improper.
9) On Nov. 7, 2006, the examiner issued an advisory action refusing entry of the after final amendment filed Oct. 20, 2006 since the amendment to claim 1 raised new issues that would require further consideration and/or search.
10) On Nov. 21, 2006, the petitioner filed the current request to withdraw the restriction requirement made FINAL in the Office action dated Aug. 22, 2005 and that claims 25-33 be examined in this application.
11) On Jan. 22, 2007, the petitioner filed an appeal brief.

Discussion and analysis

MPEP 806.05(f) Process of Making and Product Made, states:

> A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process *as claimed* is not an obvious process of making the product and the process as *claimed* can be used to make another materially different product; or (B) that the product *as claimed* can be made by another materially different process. Allegations of different processes or products need not be documented. A product defined by the process by which it can be made is still a product claim (*In re Bridgeford*, 357 F.2d 679, 149 USPQ 55 (CCPA 1966)) and can be restricted from the process if the examiner can demonstrate that the product as claimed can be made by another materially different process; defining the product in terms of a process by which it is made is nothing more than a permissible technique that applicant may use to define the invention. If applicant convincingly traverses the requirement, the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement. Form paragraphs 8.18 and 8.21.04 should be used in restriction requirements between product and process of making.

MPEP 806.05(d) Subcombinations Usable Together, states:

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable when the subcombinations do not overlap in scope and are not obvious variants. To support a restriction requirement where applicant separately claims plural subcombinations usable together in a single combination and claims a combination that requires the particulars of at least one of said subcombinations, both two-way distinctness and reasons for insisting on restriction are necessary. Each subcombination is distinct from the combination as claimed if: (A) the combination does not require the particulars of the subcombination as claimed for patentability (e.g., to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. See MPEP § 806.05(c). Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search. Where claims to two or more subcombinations are presented along with a claim to a

> combination that includes the particulars of at least two subcombinations, the presence of the claim to the second subcombination is evidence that the details of the first subcombination are not required for patentability (and vice versa). For example, if an application claims ABC/B/C wherein ABC is a combination claim and B and C are each subcombinations that are properly restrictable from each other, the presence of a claim to C provides evidence that the details of B are not required for the patentability of combination ABC. Upon determining that all claims directed to an elected combination invention are allowable, the examiner must reconsider the propriety of the restriction requirement. Where the combination is allowable in view of the patentability of at least one of the subcombinations, the restriction requirement between the elected combination and patentable subcombination(s) will be withdrawn; furthermore, any subcombinations that were searched and determined to be allowable must also be rejoined. If a subcombination is elected and determined to be allowable, nonelected claims requiring all the limitations of the allowable claim will be rejoined in accordance with MPEP § 821.04. Form paragraph 8.16 may be used in restriction requirements between subcombinations.

In the restriction requirement dated Apr. 22, 2005, the examiner grouped the claims as follows:

> Group I: Claims 1-9 and 21-24, drawn to a process of making a disc drive
> Group II: Claims 25-29, drawn to a product of a disc drive
> Group III: Claims 30-33, drawn to a product of a disc stack with a servo motor

The examiner stated that Groups I and II were related as process of making and product made, Groups I and III were related as process of making and product made, and Groups II and III were related as subcombinations disclosed as usable together in a single combination.

The claims have been amended several times since the original filing date of this application. In order to determine whether or not the restriction requirement of Apr. 22, 2005 is still proper, the most recent entered claims must be reviewed. Since the amended claims filed in an after final amendment on Oct. 20, 2006 were not entered, the most recent pending claims are to be found in the amendment filed May 31, 2006.

A comparison of claims 1 and 25 reveals that claim 1 requires the positively recited step of placing prewritten discs "around a motor hub". There is no mention of a "motor" in claim 25. Therefore, in accordance with MPEP 806.05(f), the product *as claimed* can be made by another materially different process. In this case, the product as claimed can be made by a materially different process, such as a process which does not require the specific step of placing prewritten discs around a motor hub. In addition, the product can be made in a process wherein each disc is concentrically aligned with respect to each other and wherein the servo tracks are aligned with each other *prior* to placing the discs around a motor hub. Currently, claim 1 requires placing discs having servo tracks that are offset, placing the discs around a motor hub, and biasing each disc to concentrically align the servo tracks.

A comparison of claims 1 and 30 reveals that claim 1 requires the positively recited step of "biasing each disc in a direction of the respective angular reference axis to concentrically align the servo tracks" which is not recited in claim 30. Therefore, in accordance with MPEP 806.05(f), the product *as claimed* can be made by another materially different process. In this case, the product as claimed can be made by a materially different process, such as a process which does not require the specific step of biasing each disc in a direction of the respective angular reference axis to concentrically align the servo tracks. For example, the product can be

made in a process wherein each disc is concentrically aligned with respect to each other and wherein the servo tracks are aligned with each other *prior* to placing the discs around a motor hub. Currently, claim 1 requires placing discs having servo tracks that are offset, placing the discs around a motor hub, and biasing each disc to concentrically align the servo tracks.

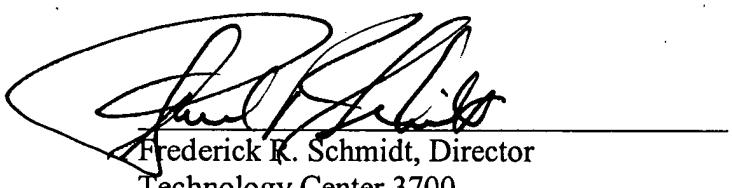
A comparison of claims 25 and 30 reveals that claim 30 requires a motor for a data storage device which is not found in claim 25. Therefore, in accordance with MPEP 806.05(d), the subcombinations are distinct from each other if they are shown to be separately usable. In this case, Group III is separately usable in that it has a motor that is used for a data storage device.

Petitioner's specific request on page 1, last 4 lines of the petition, that there be a showing of one way distinctness by either showing how the process of claim 1 can be used to make a materially different product than claims 25 and/or 30, or how the product of claims 25 and/or 30 can be made by a materially different process than claim 1, has been addressed above.

In view of the record, the restriction requirement rendered in the Office action dated Apr. 22, 2005 and made FINAL on Aug. 22, 2005 is considered proper and stands. Petitioner's request to have non-elected claims 25-33 be examined in this application is dismissed.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is dismissed.



Frederick R. Schmidt, Director
Technology Center 3700

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Paper No. 8

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OFFICE OF PETITIONS

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

In re Application of :
Gilbert, et al. :
Application No. 09/981,565 : DECISION GRANTING STATUS
Filed: October 17, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No.: CF/040 :
For: SYSTEMS AND METHODS FOR :
BID/OFFER SPREAD TRADING :

This decision is in response to the petition under 37 CFR 1.47(a), filed June 20, 2002.

Petitioner has shown that the legal representative of deceased inventor Andrew C. Gilbert has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, petitioner has sufficiently established that the legal representative of the deceased inventor received the application papers and thereafter failed to execute the declaration.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Andrew C. Gilbert et al :
Application No. 09/981,565 : DECISION GRANTING PETITION
Filed: October 17, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-040 :

This is a decision on the petition, filed April 9, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on March 21, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 2122 for examination in due course.

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

MAILED

DEC 2 1 2004

Director's Office
Group 3700

Polster, Lieder, Woodruff & Lucchesi, L.C.
formerly Cohn, Powell & Hind, P.C.
12412 Powerscourt Drive
St. Louis, MO 63131

Paper No.

In re Application of	:	DECISION ON PETITION
Fredrick B. Jedlicka et al	:	TO WITHDRAW
Serial No. : 09/981,574	:	HOLDING OF
Filed : October 17, 2001	:	ABANDONMENT
For : Dispensing Apparatus with Remote Control	:	

This is a decision on petitioner's request filed August 9, 2004 requesting revival of the application pursuant to 37 CFR 1.137(a) that is being treated as a request to withdraw the holding of abandonment under 37 CFR 1.181. The application was held abandoned for failure to respond to the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed June 10, 2002. A Notice of Abandonment was mailed August 4, 2003. The basis for the request is that applicant did not receive the communications mailed June 10, 2002. Petitioner learned of the abandoned status of the application during a telephonic conversation initiated by the examiner on July 31, 2003. There is no fee required for this petition.

A review of the file reveals, as correctly pointed out by petitioner, that the Office action of June 10, 2002 was mailed to an incorrect address as the Office appears not to have acted on a request to change the correspondence address that was filed January 11, 2002. Petitioner has submitted proof in the form of a PTO-stamped post card receipt to show that the Office had received the request for a change of the correspondence address but fail to act on it. Any inconvenience is respectfully regretted. Accordingly, in view of the above, the holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the examiner for treatment of the Information Disclosure Statement filed September 17, 2002 and the issuance of an Office action reflecting treatment of the IDS.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750

ak/12/21/04

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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 California Street
Mountain View, CA 94041

MAILED

APR 2 6 2005

Technology Center 2100

In re Application of:
Eng-Whatt TOH, et al
Application No. 09/981,588
Filed: October 16, 2001
For: UNIVERSAL SIGNATURE OBJECT FOR DIGITAL DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 16, 2004.

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

The request is **GRANTED**.

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

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

cc: Robert N. Blackmon
MEREK, BLACKMORE & VOORHEES, LLC
673 S. Washington ST
Alexandria, VA 22314

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

JULIE L REED
MARGER JOHNSON & MCCOLLOM PC
1030 S W MORRISON STREET
PORTLAND, OR 97205

COPY MAILED

MAY 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Richard L. Coulson	:	DECISION GRANTING
Application No. 09/981,620	:	PETITION
Filed: October 16, 2001	:	
Attorney Docket No. 5038-118	:	

This is a decision on the petition under 37 CFR 1.10(d) filed on February 21, 2002, requesting that the above-identified application be accorded a filing date of October 16, 2001, rather than the presently accorded filing date of October 15, 2001.

Applicant submits a copy of the Express Mail label No. EL730606756US, the same Express Mail receipt number that appears on the original transmittal letter. While applicant admits that the Express Mail label bears a handwritten "date-in" of 10/15/01, applicant argues that the application was actually deposited with the U.S. Postal Service (USPS) as Express Mail pursuant to 37 CFR 1.10 on October 16, 2001. In support, applicant provided a copy of the USPS Track/Confirm record showing that the package in question was accepted on October 16, 2001.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 16, 2001.

The petition is granted.

No petition fee is required and none has been changed.

The application is being returned to Initial Patent Examination Division for correction of the filing date to October 16, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RECEIVED
MAY 21 2002
LATHROP & CLARK LLP

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON WI 53701-1507

COPY MAILED
MAY 16 2002
OFFICE OF PETITIONS

In re Application of :
Scott J. Rose, et al. :
Application No. 09/981,640 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. FOODSYS-6 :

This is a decision on the petition, filed May 13, 2002, 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 April 29, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

The application is being forwarded to Technology Center AU 3721 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
(703) 305-9220

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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.

LATHROP & CLARK LLP
740 REGENT STREET SUITE 400
P.O. BOX 1507
MADISON WI 53701-1507

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MAY 16 2002

OFFICE OF PETITIONS

In re Application of :
Scott J. Rose, et al. :
Application No. 09/981,640 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. FOODSYS-6 :

This is a decision on the petition, filed May 13, 2002, 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 April 29, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

The application is being forwarded to Technology Center AU 3721 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
(703) 305-9220

[1]The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

COPY MAILED

JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Leo W.M. Lau	:	
Application No. 09/981,643	:	DECISION GRANTING PETITION
Filed: October 16, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CUH-003.00/16678US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 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 amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed July 21, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1775.

Karen Creasy

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

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

Stephen Y. Pang
TOWNSEND AND TOWNSEND AND CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

MAR 11 2005

Technology Center 2100

In re Application of:
Lango
Application No. 09/981,644
Filed: October 16, 2001
For: METHODS AND APPARATUS FOR PACING DELIVERY OF STREAMING MEDIA DATA

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 February 25, 2004.

A Power of Attorney Under 37 CFR 1.36 was filed on December 06, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Blakely, Sokoloff, Taylor & Zafman LLP as the attorneys of record of the instant application. The Power Of Attorney of December 06, 2004, was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted Blakely, Sokoloff, Taylor & Zafman LLP.

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

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

James R. Matthews

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

cc: Jordan M. Becker
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Patent No. 6512708
Issue Date: January 28,2003
Application No. 09981650
Filed: October 16,2001
Attorney Docket No. 81848.0013

:

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

:

This is a decision on the electronic petition, filed February 12,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 12,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6512708	2003-01-28	09981650	2001-10-16	

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	/John N. Gross/	Date (YYYY-MM-DD)	2008-02-12
Name	John N. Gross	Registration Number	34175

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
Washington, D.C. 20231
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Paper No. 7

SHAUKAT A. KARJEKER
C/O STOEL RIVES LLP
900 SW FIFTH AVENUE, SUITE 2600
PORTLAND OREGON 97204-1268

COPY MAILED

APR 16 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mitchell A. Benjamin et al :
Application No. 09/981,660 :
Filed: October 17, 2001 :
Attorney Docket No. 44375/16:1 :

This is in response to the "Petition to Withdraw Claim of Priority," filed March 26, 2002.

The petition is dismissed as moot.

Petitioner requests that the claim to priority to nonprovisional Application No. 09/837,563 and provisional Application No. 60/198,068 be withdrawn.

Petitioner is advised that withdrawal of a reference to a claim for priority made in the first line following the title of the specification is appropriate by way of an amendment. It is noted that an amendment deleting all reference to prior-filed nonprovisional Application No. 09/837,563 and provisional Application No. 60/198,068 has been submitted concurrently with the instant petition. Accordingly, the submission of a petition to delete a reference to the prior filed applications is unnecessary and is dismissed as involving a moot issue.

Petitioner is advised that, by deleting all reference to the prior filed applications, he cannot later file a petition under 37 CFR 1.78(a)(3) and (a)(6) to accept a claim for priority to the prior-filed applications as unintentional.

It is noted that a petition under 37 CFR 1.48(b) was filed on March 26, 2002 to remove Daniel Preston and R. Pierce Lutter as inventors.

Petitioner's attention is directed to 37 CFR 1.48(f), which states:

> If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath during the pendency of the application will act to correct the earlier identification of inventorship. See §§ 1.41(a)(4) ***.

Accordingly, since the executed declaration filed on March 26, 2002 is the first submission of an executed declaration, that declaration acts to correct the earlier identification of inventorship.

A corrected filing receipt which reflects that this application does not claim priority to any prior-filed applications and which reflects the inventors named in the declaration received March 26, 2002 accompanies this decision on petition.

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

This application is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing and for mailing of a Filing Receipt reflecting the projected publication date of the instant application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI L.L.P.
A REGISTERED LIMITED LIABILITY PARTNERSHIP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN TX 78701

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JUL 15 2005

OFFICE OF PETITIONS

In re Application :
Wai-Hoi Wong :
Application No. 09/981,681 : DECISION ON APPLICATION
Filed: October 16, 2001 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. UTSC:727US :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)...," filed February 18, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred nine (409) days to five hundred thirty-one (531) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred thirty-one **(531)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 6, 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 four hundred nine days. On February 18, 2005, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is five hundred thirty-one (531) days. Applicants dispute the reduction of one hundred twenty-two (122) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed November 16, 2001.

The Office initially determined a patent term adjustment of four hundred nine (409) days

[1] PALM records indicate that the Issue Fee was received in the Office on March 8, 2005.

based on an adjustment for PTO delay of five hundred thirty-five (535) 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 totaling one hundred twenty-six days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 535 days and the reduction of 4 days have been reviewed and found to be correct. The reduction of one hundred twenty-two (122) days of applicant delay is at issue.

The reduction of 122 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed November 16, 2001, is of record in the application with a date of receipt by the Office of January 18, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as June 18, 2002 or assessed applicants a delay of one hundred twenty-two (122) days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred thirty-one (531) days.

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been charged to deposit account no.50-1212, per the authorization in the petition. No additional fees are required.

The Office will refer the matter to the Office of Patent Publication so that a patent can be issued.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Karin Ferriter
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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04 DEC 2006

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

In re Application of TANSKANEN et al :
U.S. Application No.: 09/981,688 :
PCT Application No.: PCT/US00/14694 :
Int. Filing Date: 30 May 2000 : DECISION
Priority Date Claimed: 28 May 1999 :
Attorney Docket No.: 004770.00566 (NC28056) :
For: REAL-TIME INTERACTIVE AND :
PERSONALIZED VIDEO SERVICES :

This is in response to applicant's "Petition to Act on Previously-Filed Petition and Petition to Confirm Priority Claims" filed 22 November 2006, which are being treated collectively as a petition under 37 CFR 1.182. The requisite petition fee has been submitted.

BACKGROUND

On 30 May 2000, applicant filed international application PCT/US00/14694, which claimed priority of an earlier United States application filed 28 May 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 01 March 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 December 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 28 November 2001.

On 14 June 2001, the International Bureau published a corrected version of international application PCT/US00/14694.

On 17 October 2001, applicant filed an application under 35 U.S.C. 111(a), which was purportedly a continuation of international application PCT/US00/14694, along with a petition to revive international application PCT/US00/14694 under 37 CFR 1.137(b).

On 22 November 2006, applicant filed the present petition under 37 CFR 1.182.

DISCUSSION

The petition states that the United States was withdrawn as a designated state in international application PCT/US00/14694. The published corrected version of international application PCT/US00/14694 confirms that the United States is not a designated state.

35 U.S.C. 363 states,

> An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

35 U.S.C. 366 states,

> Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect after the date of withdrawal and shall be considered as not having been made, unless a claim for benefit of a prior filing date under section 365(c) of this section was made in a national application, or an international application designating the United States, filed before the date of such withdrawal. However, such withdrawn international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

In the present case, because international application PCT/US00/14694 was withdrawn as to the United States, international application PCT/US00/14694 does not have the effect of a national application for patent regularly filed in the USPTO.

The papers filed 17 October 2001 satisfy the requirements for a filing date under 35 U.S.C. 111(a). However, because international application PCT/US00/14694 does not have the effect of a U.S. national application, the present application 09/981,688 is not entitled to the benefit of the filing date of international application PCT/US00/14694 under 35 U.S.C. 120. Accordingly, any reference to the present application as a continuation of international application PCT/US00/14694 is improper. Furthermore, the present application is not entitled to the benefit of the filing date of U.S. provisional application 60/136,589 under 35 U.S.C. 119(e), because the present application was filed later than 12 months after the date of the provisional application filing date.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

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

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bijan K. Amini
1700 Rockville Pike
Suite 400
Rockville, MD 20852

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Bijan K. Amini :
Application No. 09/981,775 : ON PETITION
Filed: October 16, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue and publication fees; (2) the petition fee of $685; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of the issue and publication fees, which were submitted with the 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

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

Merchant & Gould P.C.
PO Box 2903
Minneapolis, MN 55402-0903

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
David B. Annan, Eric K. Chan, Eddie S. Decurtis, :
Teresa L. Stephens, George L. Lasota, and William J. :
Schaefer :
Application No. 09/981,777 :
Filed: October 16, 2001 :
Attorney Docket No. 11465.1 :
Title: METHOD AND SYSTEM FOR WIRELESS :
AUDIO MESSAGE DELIVERY :

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 11, 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on October 16, 2001, identifying David B. Annan, Eric K. Chan, Eddie S. Decurtis, Teresa L. Stephens, George L. Lasota, and William J. Schaefer as joint inventors. On December 14, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration[2] in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee[3]), as well as the surcharge associated with the late filing of an oath or declaration. To make timely this reply, a two-month extension of time was requested, and had been charged to petitioner's Deposit Account.

Accompanying the petitions were statements from attorney John W. Branch, copies of the cover letters sent to the non-signing inventors which requested that they sign the declaration, copies of internet search results, and copies of

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[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that the non-signing inventor refuses to join in the application or cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The declaration was executed by inventors Annan, Chan, and Schaefer.
3 The applicant has included $390.00 for the petitions fees, believing that three petitions were necessary. As this could have been handled with merely one petition, the difference of $260.00 will be refunded to petitioner's Deposit Account, as authorized in the petition.

the non-signing inventors employment agreements which establish that each of them was required to assign any inventions to their employers.

The documents submitted establish that a copy of the application was sent to each of the non-signing inventors, and they have failed to respond.

The petition includes the last known address for each of the non-signing inventors. The documents submitted establish that a copy of the application papers was sent to each of the non-signing inventors at their last known address, and they have failed to respond. The evidence further shows diligent effort to determine if the inventors have new addresses, so the application papers could be forwarded to them at those addresses.

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

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

After this decision is mailed, the application will be returned to the Office of Initial Patent Examination (OIPE) for completion of pre-examination processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

George L. Lasota
100 U.N. Plaza, 10F
New York, NY 10017

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AUG 2 1 2002

OFFICE OF PETITIONS

LETTER

In re Application of :
David B. Annan, Eric K. Chan, Eddie S. Decurtis, :
Teresa L. Stephens, George L. Lasota, and William J. :
Schaefer :
Application No. 09/981,777 :
Filed: October 16, 2001 :
Attorney Docket No. 11465.1 :
Title: METHOD AND SYSTEM FOR WIRELESS :
AUDIO MESSAGE DELIVERY :

Dear Mr. Lasota:

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).

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

Merchant & Gould P.C.
PO Box 2903
Minneapolis, MN 55402-0903

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Eddie S. Decurtis
1430 Bent Trail Circle
Southlake, Texas 76092

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
David B. Annan, Eric K. Chan, Eddie S. Decurtis, :
Teresa L. Stephens, George L. Lasota, and William J. :
Schaefer :
Application No. 09/981,777 : LETTER
Filed: October 16, 2001 :
Attorney Docket No. 11465.1 :
Title: METHOD AND SYSTEM FOR WIRELESS :
AUDIO MESSAGE DELIVERY :

Dear Mr. Decurtis:

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).

Nancy Johnson for

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

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Minneapolis, MN 55402-0903

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

Teresa L. Stephens
24 Bridge Street
Westport, CT 06880

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AUG 2 1 2002

OFFICE OF PETITIONS

LETTER

In re Application of :
David B. Annan, Eric K. Chan, Eddie S. Decurtis, :
Teresa L. Stephens, George L. Lasota, and William J. :
Schaefer :
Application No. 09/981,777 :
Filed: October 16, 2001 :
Attorney Docket No. 11465.1 :
Title: METHOD AND SYSTEM FOR WIRELESS :
AUDIO MESSAGE DELIVERY :

Dear Ms. Stephens:

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).

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

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PO Box 2903
Minneapolis, MN 55402-0903

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

Juan C. Di Pietro
Estrada 1587, B1640 Martinez
Buenos Aires,
Argentina

In re Application of :
Juan Carlos Di Pietro : DECISION ON PETITION
Application No. 09/981,812 : TO WITHDRAW THE
Filed: October 19, 2001 : HOLDING OF ABANDONMENT
For: ADAPTOR DEVICE FOR DOMESTIC SHOOTING PRACTICE WITH LARGE-CALIBRE HAND-GUNS

This is a decision on applicant's petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on October 19, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a First Office Action rejection was mailed to applicant on February 24, 2003. On May 22, 2003 and May 27, 2003 applicant submitted responses to the February 24, 2003 rejection. On June 2, 2003 a letter of Non-Compliance was sent to applicant. Applicant responded to the Non-Compliance letter with and amendment, submitted July 7, 2003. On August 20, 2003, in response to the July 7, 2003 amendment, the Office mailed a letter of Informality, indicating that a balance of $9.00 in fees were due. The August 20, 2003 letter of Informality gave the applicant one month to remit the missing fees. Since the fees were not submitted before September 20, 2003, the application became abandoned, and a Notice of Abandonment was mailed on September 23, 2004.

In his present petition applicant now submits the $9.00 fee due, and contends that the Fee Letter mailed August 20, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, that would have handled the Office communication. Applicant should also include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of

the file maintained by applicant), are required if available. Also, a showing of any docket records, *or other method* which would serve as a reminder of a response due date, should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

It is noted that, in his petition, applicant provides an "alternative" address. However, the Office will address and mail correspondence to the Correspondence Address on record, and not to other addresses provided by applicant. If applicant wishes to change his Correspondence Address, he must do so by following the procedure outlined in MPEP § 601.03. MPEP § 601.03 states,

> "Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP code)..."
>
> "The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/rwg: 2/09/05

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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FROM DIRECTORS OFFICE

AUG 2 4 2005

TECHNOLOGY CENTER 3600

Juan C. Di Pietro
Estrada 1587, B1640 Martinez
Buenos Aires,
Argentina

In re Application of	:	DECISION ON
Juan Carlos Di Pietro	:	RENEWED PETITION
Application No. 09/981,812	:	TO WITHDRAW THE
Filed: October 19, 2001	:	HOLDING OF ABANDONMENT

For: ADAPTOR DEVICE FOR DOMESTIC SHOOTING PRACTICE WITH LARGE-CALIBRE HAND-GUNS

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 May 9, 2005.

The petition is **DISMISSED.**

A review of the file record reveals that a First Office Action rejection was mailed to applicant on February 24, 2003. On May 22, 2003 and May 27, 2003 applicant submitted responses to the February 24, 2003 rejection. On June 2, 2003 a letter of Non-Compliance was sent to applicant. Applicant responded to the Non-Compliance letter with and amendment, submitted July 7, 2003. On August 20, 2003, in response to the July 7, 2003 amendment, the Office mailed a letter of Informality, indicating that a balance of $9.00 in fees were due. The August 20, 2003 letter of Informality gave the applicant one month to remit the missing fees. Since the fees were not submitted before September 20, 2003, the application became abandoned, and a Notice of Abandonment was mailed on September 23, 2004.

In his initial petition applicant submitted the $9.00 fee due, and now renews the petition that the Fee Letter mailed August 20, 2003 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An

allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, that would have handled the Office communication. Applicant should also include any available documentary evidence of mail received from the USPTO, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (*e.g.*, a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records, *or other method* which would serve as a reminder of a response due date, should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant has submitted a statement from someone at the correspondence address who handles the mail. Applicant also states that he was at the correspondence address at the time of mailing. Applicant has not shown any available documentary evidence of USPTO mail received to show non-receipt of the communication in question. Applicant has not shown any docket records or other method which would serve as a reminder of a response due date. Finally, Applicant has not shown a copy of a file or other record where a response would have been entered had it been received.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/js: 8/16/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROGER CONSTANTINE FIELD
P.O. BOX 950169
MUNICH 81517 DE GERMANY

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Roger Constantine Field :
Application No. 09/981,816 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Applications Papers mailed November 5, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 6, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a substitute specification; (2) the petition fee of $750.00; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3213.

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

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Patent No. 6,941,865
Kazunori Kato
Issue Date: September 13, 2005
Application No. 09/981,821
Filed: October 19, 2001
Attorney Docket No. 862.C2410

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.702(2)," filed October 28, 2005. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifty six (356) days to four hundred seventy nine (479) days.

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

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred seventy-nine **(479)** days.

On September 13,2005, the above-identified application matured into U.S. Patent No. 6,941,865. The instant request for reconsideration filed October 28, 2005 was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 356 days. Patentee states that the patent term adjustment should not have been reduced by 120 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the only paper filed after the mailing of the Notice of Allowance was a "Request for Corrected Notice of Allowance".

Patentees' argument is well-taken. As stated in MPEP 2732, the submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the

"Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). A review of the application record reveals that the reduction of 120 days was based on the filing after allowance of a request for correction of an error in the Notice of Allowability filed August 30, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 120 days.

Patentee also disputes the reduction of three (3) days based on patentee's failure to file a response to the non-Final Office Action mailed September 30, 2003 within three months. The issue fee payment was received in the Office on August 30, 2004 however, 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 upon payment of the issue fee on August 30, 2004. As there is no dispute that an application for patent term adjustment disputing the three days which have been deducted as applicant delay, was not filed prior to the payment of the issue fee, the issue now raised is untimely and will not be reconsidered.

In view thereof, the patent term adjustment indicated on the patent should have been four hundred seventy-six **(476)** days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been applied. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred seventy-six **(476)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney, Patricia Faison-Ball at (571) 272-3212.

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 : 6,941,865 B2

DATED : September 13, 2005

INVENTOR(S) : Kazunori Kato

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 (356) days

Delete the phrase "by 356 days" and insert – by 476 days--

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HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

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JUN 1 0 2003

OFFICE OF PETITIONS

Applicant: Ruben et al.
Appl. No.: 09/981,876
Filing Date: October 19, 2001
Title: SECRETED PROTEIN HRGDF73
Attorney Docket No.: Z001G67AP1D1
Pub. No.: US 2002/0164669 A1
Pub. Date: November 7, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on January 7, 2003 for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication omits some of the continuity data. Applicant argues that the mistake is material because the missing priority data affects the use of the published application as prior art under 35 U.S.C. § 102(e), as a member of the public would be unable to determine the correct effective date of the publication as a reference.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the continuity claim is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The improper priority claim is not a material mistake because it 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 specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the earliest priority date is correctly published. While some of the related continuity data is missing, anyone looking to determine the effective date of the publication as a reference would have to order the provisional application files and would be reviewing PALM.

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

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

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CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Oh et al.	:	
Application No. 09/981,940	:	ON PETITION
Filed: October 17, 2001	:	
Attorney Docket No. 5000-1-221	:	

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

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed September 10, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 11, 2003. A Notice of Abandonment was mailed on April 20, 2004.

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

The matter is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,955	10/17/2001	Reimund Stingl	(Z) 00091	8418

7590 08/04/2005

M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

EXAMINER	
NGUYEN, THONG Q	
ART UNIT	**PAPER NUMBER**
2872	

DATE MAILED: 08/04/2005

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

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AUG 01 2005

M. ROBERT KESTENBAUM
11011 Bermuda Dunes NE
Albuquerque, NM 87111

In re Application of:
Reimund Stingl
Serial No.: 09/981,955
Filed: October 17, 2001
Attorney Docket No.: **(Z)00091PUS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDOMENT

This is a decision on the communication filed March 16, 2005, requesting reconsideration of the holding of abandonment under MPEP 711.03. The communication has been treated as a petition under 37 C.F.R. § 1.181, to withdraw the holding of abandonment. No fee is required.

The petitions are **GRANTED**.

The application was held abandoned for failure to timely file a reply to the Office letter mailed on March 07, 2003. A Notice of Abandonment was subsequently mailed on December 20, 2004.

Petitioner asserts that the abandonment of the application is improper since there was no Office letter mailed on March 7, 2003. Petitioner states that an Election Requirement was mailed on March 10, 2003, and that a response was filed on June 11, 2003. Further, Petitioner states that the response included a request to reset the period for response since the Election Requirement was not received until almost two months from the mailing date. It is asserted that the Petitioner contacted the Examiner of record on July 03, 2003, to discuss the response. Petitioner asserts that the Examiner stated that the response would not be entered because no extension of time fee was included, and Petitioner's request to reset the period for response was not sufficient. The Examiner told Petitioner that his options were to pay the extension of time required, or file a petition to restart the period for response.

A review of the file record indicates that a notice of deficient fees, with a set period for response, was never sent after the receipt of the response on June 11, 2003. Further, it is noted that a General Authorization to charge the Deposit Account for necessary fees was file with the application on October 17, 2001. As such, the fee for the extension of time should have been

charged by the USPTO on June 11, 2003, when the response was filed. Therefore, the application should not have been held abandoned.

For the above stated reason, the petitions are granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status. The Petitioner's Deposit Account will be charged the three (3) month extension fee for the response. Should Petitioner feel the fee was in excess, or charged in error, a petition for refund may be filed. The response will be entered and the application will be returned to the examiner for further prosecution.

Any inquiry concerning this petition should be directed to Clayton E. LaBalle at, Special Program Examiner, at (571) 272-1594.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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TECHNOLOGY CENTER 3600

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Oblon, Spivak, McClelland, Maier & Nuestadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of :
Yasuhiro Iwamura et al. :
Application No. 09/981,983 :
Filed: October 19, 2001 :
For: NUCLIDE TRANSMUTATION DEVICE AND
NUCLIDE TRANSMUTATION METHOD

DECISION ON PETITION FOR SECOND SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on April 4, 2006.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on August 5, 2005 to suspend action by the examiner until a cooperative experiment could be conducted by an Independent Administrative Institution, RIKEN, which experiment has apparently since been completed. A decision granting a 6 month suspension was mailed August 15, 2005. In the latest petition filed April 4, 2006, the applicant indicates that additional cooperative research between the U.S. Naval Research Laboratory (NRL) and Mitsubishi Heavy Industries, Ltd on the subject matter of applicant's invention has been ongoing since May 20, 2005. The applicant believes that the result of the research will provide experimental results in support of operability of the present invention that applicant would like to submit upon it's publication. Furthermore, a second research team from Kobe University will publish related experimental data related to applicant's invention in the fall of 2006. The applicant feels that these published results may aid in the examination of the above application.

There being ongoing research which may materially impact a decision on the operability of applicant's invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a second suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Applicant's deposit account 15-0030 has been charged the required petition fee of $200.00 under 37 CFR 1.17(g).

Any questions surrounding this decision should be directed to Special Program Examiner Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 5/6/06

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1940 Duke Street
Alexandria, VA 22314

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DEC 0 6 2006

TECHNOLOGY CENTER 3600

In re application of :
Yasuhiro Iwamura et al. :
Application No. 09/981,983 :
Filed: October 19, 2001 :
For: NUCLIDE TRANSMUTATION DEVICE AND NUCLIDE TRANSMUTATION METHOD

DECISION ON PETITION FOR SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a third suspension of action under 37 CFR 1.103(a) received on November 8, 2006.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

A petition was filed on August 5, 2005 to suspend action by the examiner until a cooperative experiment could be conducted by an Independent Administrative Institution, RIKEN, which experiment has apparently since been completed. A decision granting a 6 month suspension was mailed August 15, 2005. In a petition filed April 4, 2006, the applicants indicated that additional cooperative research between the U.S. Naval Research Laboratory (NRL) and Mitsubishi Heavy Industries, Ltd on the subject matter of applicants' invention had been ongoing since May 20, 2005 and is scheduled to continue until May, 2007. Petitioner indicates in the instant petition that this schedule has not changed. Petitioner believes that the result of the research will provide experimental results in support of operability of the present invention that applicants would like to submit upon its publication. Furthermore, a second research team from Kobe University conducted research on related technology and applicants wish to submit information of the experiment as it becomes available.

There being ongoing research which may materially impact a decision on the operability of applicants' invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a second suspension should be granted, and thus the petition for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period, applicants are required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicants wish to commence prosecution earlier than the expiration of the 6-month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Applicants' deposit account 15-0030 has been charged the required petition fee of $200.00 under 37 CFR 1.17(g).

Any questions surrounding this decision should be directed to Quality Assurance Specialist Kenneth J. Dorner at (571) 272-6587.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

kjd: 12/05/06

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Oblon, Spivak, McClelland, Maier & Nuestadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re application of :
Yasuhiro Iwamura et al. :
Application No. 09/981,983 :
Filed: October 19, 2001 :
For: NUCLIDE TRANSMUTATION DEVICE AND
NUCLIDE TRANSMUTATION METHOD

DECISION ON PETITION FOR FOURTH SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on June 6, 2007.

The petition for suspension of action under 37 CFR 1.103(a) is **GRANTED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on August 5, 2005 to suspend action by the examiner until a cooperative experiment could be conducted by an Independent Administrative Institution, RIKEN, which experiment has apparently since been completed. A decision granting a 6 month suspension was mailed August 15, 2005. In a subsequent petition filed April 4, 2006, the applicant indicates that additional cooperative research between the U.S. Naval Research Laboratory (NRL) and Mitsubishi Heavy Industries, Ltd on the subject matter of applicant's invention has been ongoing since May 20, 2005 and scheduled to continue until May 2007. A third petition filed November 8, 2006 indicated that this schedule remained unchanged. This third petition was granted on December 6, 2006. The instant petition indicates that the above research is currently still in progress. The applicant believes that the result of the research will provide experimental results in support of operability of the present invention that applicant would like to submit upon it's publication.

There being ongoing research which may materially impact a decision on the operability of applicant's invention, it is deemed that the existence of these endeavors constitute a good and sufficient reason why a second suspension should be granted, and thus applicants' request for an additional period of suspension of six (6) months is reasonable and will be **GRANTED**. However, at the conclusion of this latest period of suspension, applicant will have had 24 months of time to complete the experimental testing. Suspensions of action cannot go on indefinitely. As a result, applicant should not expect to receive another suspension at the conclusion of this latest 6 month suspension period. Any such future request will need to go into specific detail as to what experimental procedures have taken place, when they occurred, what procedures are yet to be completed, and why they could not have been completed by the end of this suspension period. Specific evidence would need to be provided as to why non-completion of the required testing by the end of 24 months was unavoidable.

Action by the Office on this application is suspended under 37 CFR 1.103(a) for a period of six (6) months from the date of this letter. At the end of this period applicant is required to notify the examiner and request commencement of prosecution or a further suspension. See MPEP 709. If applicant wishes to commence prosecution earlier than the expiration of the 6 month period, the examiner should be so notified.

The period for suspension will be six (6) months from the date of this letter.

Applicant's deposit account 15-0030 has been charged the balance of the required petition fee of $200.00 under 37 CFR 1.17(g).

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 8/17/07
SM

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,983	10/19/2001	Yasuhiro Iwamura	215141US2	7491

22850 7590 03/18/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
GREENE, DANIEL LAWSON

ART UNIT	PAPER NUMBER
3694	

NOTIFICATION DATE	DELIVERY MODE
03/18/2008	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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1940 Duke Street
Alexandria, VA 22314

In re application of :
Yasuhiro Iwamura et al :
Application No. 09/981,983 :
Filed: October 19, 2001 :
For: NUCLIDE TRANSMUTATION DEVICE
AND NUCLIDE TRANSMUTATION METHOD

DECISION ON PETITION FOR FIFTH SUSPENSION OF ACTION UNDER 37 CFR 1.103 (a)

This letter is responsive to the petition for a fifth suspension of action under 37 CFR 1.103(a) received on February 25, 2008.

The petition for suspension of action under 37 CFR 1.103(a) is **DENIED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a petition on August 5, 2005 to suspend action by the examiner until a cooperative experiment could be conducted by an Independent Administrative Institution, RIKEN, which experiment has apparently since been completed. A decision granting a 6 month suspension was mailed August 15, 2005. In a subsequent petition filed April 4, 2006, the applicant indicates that additional cooperative research between the U.S. Naval Research Laboratory (NRL) and Mitsubishi Heavy Industries, Ltd on the subject matter of applicant's invention has been ongoing since May 20, 2005 and scheduled to continue until May 2007. This petition was granted on May 8, 2006. A third petition filed November 8, 2006 indicated that this schedule remained unchanged. This third petition was granted on December 6, 2006. A fourth suspension request filed June 6, 2007 was grated for the same reason as the third on August 24, 2007. The instant petition indicates that the above research has currently been suspended. The applicant believes that the result of the research will provide experimental results in support of operability of the present invention that applicant would like to submit upon it's publication. In this last decision, applicant was put on notice regarding what would be required to receive any further suspensions. The decision stated "at the conclusion of this latest period of suspension, applicant will have had 24 months of time to complete the experimental testing. Suspensions of action cannot go on indefinitely. As

a result, applicant should not expect to receive another suspension at the conclusion of this latest 6 month suspension period. Any such future request will need to go into specific detail as to what experimental procedures have taken place, when they occurred, and why they could not have been completed by the end of this suspension period. Specific evidence would need to be provided as to why non-completion of the required testing by the end of 24 months was unavoidable".

In this latest petition applicant indicates that he is wishes to submit the findings of the NRL experimental results when they become available. Applicant also provides attached reports related to the subject matter of his application.

However, in the last decision, applicant was required to specifically outline what experimental procedures have taken place, and when they occurred. It would appear that no actual testing at the NRL has yet been completed by the applicant. The exhibits provided appear to be papers completed by 3rd parties related to the claimed subject matter, and are not the laboratory testing desired by the applicant that has been the reason for the numerous suspensions of prosecution. Applicant was also required to show specific evidence as to why, after 24 months, the non-completion of the desired laboratory testing was unavoidable. There does not appear to be any unavoidable justification for why the desired testing has not yet been completed.

Given that there appears to be no clear end in sight for completion of the desired testing, and that applicant has not supplied the necessary justification for why completion has not yet occurred, no further suspension is seen as being warranted at this time.

In view of the above facts, the petition for a fifth suspension of action is **DENIED.** The application will be forwarded to the examiner of record to treat applicant's August 5, 2005 Request for Continued Examination (RCE).

Any request for a suspension of action under 37 CFR 1.103(c) should be filed under separate cover as such a request is decided by separate criteria and by a separate deciding entity.

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Donald Hajec, Director
Technology Center 3600
(571) 272-5150

snm: 3/13/08

JM

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Paper No. 17

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
PHILADELPHIA, PA 19103

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DEC 18 2003

OFFICE OF PETITIONS

In re Application of :
Stephen R. FORREST et al :
Application No. 09/982,001 : DECISION GRANTING PETITION
Filed: October 18, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. PUAS-0016 :

This is a decision on the petition, filed December 16, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 24

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

JAN 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Forrest et al. :
Application No. 09/982,001 : ON PETITION
Filed: October 18, 2001 :
Attorney Docket No. PUAS-0016 :

This is a decision on the petition under 37 CFR 1.181, filed November 8, 2004, to withdraw the holding of abandonment.

The petition is **granted.**

A Notice of Allowability was mailed April 29, 2004. The Notice required the submission of formal drawings.

Within the 3 month period for petitioner to reply to the April 29, 2004 Notice, the Office mailed a supplemental Notice of Allowability which stated new drawings were not required.

Per the second Notice, petitioner did not file new drawings.

A Notice of Abandonment was mailed on September 20, 2004.

The facts above demonstrate that the requirement for drawings was withdrawn prior to the expiration of the time period set forth in the prior Notice. Therefore, the application is not abandoned.

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

No petition fee is required for a petition to withdraw holding of abandonment under 37 C.F.R. §1.181. Therefore, the a petition fee has not been charged to petitioner's deposit account.

The file will be forwarded to the Office of Publications so that a patent may be issued in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#29

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OFFICE OF PETITIONS

In re Application of :
Stephen R. Forrest et al :
Application No. 09/982,001 : DECISION GRANTING PETITION
Filed: October 18, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. PUAS-0016 :

This is a decision on the petition, filed February 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid 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 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

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

MAILED

AUG 13 2002

Technology Center 2100

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington, VA 22215

In re Application of:
Byron Buck
Application No. 09/982,019
Filed: October 19, 2001
For: NETWORK AND METHOD FOR FACILITATING ON-LINE PRIVACY

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed July 22, 2002.

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

The request is signed by Richard C. Litman alone and does not contain a clear indication that Mr. Litman is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAILED

FEB 1 3 2003

Technology Center 2100

Paper No. 6

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington, VA 22215

In re Application of: Byron BUCK)
Application No. 09/982,019)
Filed: October 19, 2001) **DECISION ON REQUEST FOR**
For: NETWORK AND METHOD FOR) **WITHDRAWAL AS ATTORNEY**
FACILITATING ON-LINE PRIVACY)

This is a decision on the Request To Withdraw from Representation filed January 21, 2003.

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

The request is **GRANTED**.

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

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

cc: Byron Buck
641 11th Street, N.E.
Washington, DC 20002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 24 2008

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC.
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of :
Kuruoglu, et al. : DECISION ON PETITION
Application No. 09/982,024 :
Filed: October 19, 2001 :
Atty. Dkt. No.: 110915 :

This is a decision on the petition to withdraw the holding of abandonment, filed December 7, 2007, under 37 CFR 1.181.

The petition is hereby **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 1.181." This is not a final agency decision.

The instant application became abandoned for failure to timely file a proper appeal brief in response to the Notice of Appeal filed April 12, 2007. An appeal brief was filed May 4, 2007. A Notice of Non-Compliant Appeal Brief was mailed June 29, 2007. An amended appeal brief was filed July 11, 2007. A Notice of Non-Complaint Appeal Brief was mailed October 18, 2007. A Notice dismissing the appeal and holding the application abandoned was mailed November 28, 2007.

Petitioners argue that the Office prematurely dismissed applicants' appeal and held the application abandoned. Applicants' further argue that a reply to the Notice of Non-Compliant Amendment mailed October 18, 2007 was due on or before November 18, 2007. Petitioners also point out that the Notice of Non-Compliant Amendment indicated that the time period for reply was extendible up to five months in accordance with 37 CFR 1.136.

Petitioners' arguments have been carefully considered, but are not convincing. In accordance with 37 CFR 41.37(d), "[i]f a brief is filed which does not comply with all the requirements

of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed."

Thus, the time period for submission of an amended appeal brief may only extend up to five months after the two month time period for submission of the appeal brief following the Notice of Appeal.

Herein, the Notice of Appeal was submitted April 12, 2007. The appeal brief was due on or before June 12, 2007. The maximum time period for submission of a compliant appeal brief expired five months after the date that the Notice of Appeal was filed, or, November 12, 2007.

As no amended appeal brief in compliance with 37 CFR 41.37 was submitted within seven months of the Notice of Appeal, the maximum period of time allowed for submission of a compliant appeal brief, the appeal stands dismissed and the holding of abandonment cannot be withdrawn.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' 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).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC.
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Kuruoglu, et al. :
Application No. 09/982,024 : DECISION ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. 110915 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to timely file a proper appeal brief in response to the Notice of Appeal filed April 12, 2007. An appeal brief was filed May 4, 2007. A Notice of Non-Compliant Appeal Brief was mailed June 29, 2007. An amended appeal brief was filed July 11, 2007. A Notice of Non-Complaint Appeal Brief was mailed October 18, 2007. An amended appeal brief was filed October 23, 2007. A Notice dismissing the appeal and holding the application abandoned was mailed November 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an appeal brief, (2) the required petition fee, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2178 for appropriate action by the Examiner.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WENDEROTH, LIND & PONACK, LLP
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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MAY 10 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Mitsuo Tada et al :
Application No. 09/982,025 :
Filed: October 19, 2001 :
Attorney Docket No. 2001-1568A :

This is a decision on the petition, filed May 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 11 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOHN R. ROSS, III

ROSS PATENT LAW OFFICE
P.O. BOX 2138
DEL MAR, CA 92014

In re Application of:
Brian L. Ganz et al.,
Application No.: 09/982,048
Filed: October 18, 2001
For: AUTOMATED VERIFICATION AND INSPECTION DEVICE FOR SEQUENTIALLY INSPECTING MICROSCOPIC CRYSTALS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed October 18, 2001, pursuant to M.P.E.P. 708.02(XII): Biotechnology, to make the above-identified application special.

A grantable petition under M.P.E.P. § 708.02, Section XII, SPECIAL STATUS FOR APPLICATIONS RELATING TO BIOTECHNOLOGY FILED BY APPLICANTS WHO ARE SMALL ENTITIES. Applicant must file a petition with the petition fee under 37 CFR 1.17(i) requesting the special status and must:
(A) state that small entity status has been established or include a statement establishing small entity status;
(B) state that the subject of the patent application is a major asset of the small entity; and
(C) state that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

All the above requirements are met and the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file will be forwarded to the examiner for expedited prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJR.: 06-04

Paper No: 10

FELIX J. SAHLIN
1480 S. MISSISSIPPI RIVER BLVD.
ST. PAUL MN 55116-1853

COPY MAILED
JUN 16 2004
OFFICE OF PETITIONS

In re Application of
Lahn :
Application No. 09/982,049 :
Filing Date: 16 October, 2001
Attorney Docket No. 000000 (sic) :

This is a decision on the petition filed on 12 May, 2004, and in light of the allegations considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Restriction requirement mailed on 27 August, 2002, but damaged in the mail and re-mailed on 25 August (and, apparently again on 26 August), 2003, with reply due absent extension of time on 25 November, 2003;

- a result, the application was deemed abandoned after midnight 25 November, 2003;

- Notice of Abandonment was mailed on 24 March (and apparently again on 28 April), 2004;

- with the instant petition Petitioner included, *inter alia*: (a) his statement that the Office action was not received, and documents evidencing that, despite the Power of Attorney to

him submitted on original filing and the Notice of Change of Address appearing in the record and date-stamped as received by the Office on 15 August, 2002, the Office mailed the Restriction in the name of the Applicant (Richard H. Lahn) and to Petitioner's old mailing address;

- Petitioner has supplemented his petition with an Election as the reply to the Restriction.

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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

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

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

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

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

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner has evidenced that the Office action was mailed to the wrong address, notwithstanding Petitioner's timely Notice to the Office. Thus Petitioner did not receive the Office action in question, and so satisfies the showing as required under 37 C.F.R. §1.181.

NOTES:

(1) Petitioner is reminded that the filing of one or more Status Inquiry(ies) at six-month intervals may evidence Petitioner's diligence in raising more quickly to the attention of the Office the possibility of Petitioner's non-receipt of materials mailed by the Office.

(2) Use of the Receipt Card (see MPEP §503) to evidence Office receipt of papers filed continues to be a prudent practice.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, the 24 March and 28 April, 2004, Notice(s) of Abandonment are **vacated**, and the petition fee is waived.

The file is held in the Office of Petitions to address another matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

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

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

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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RECEIVED
AUG 19 2004
OFFICE OF PETITIONS

Paper No. 12

John Blouin
17041 70 Street North
Loxahatchee, FL 33470

COPY MAILED
AUG 05 2004
OFFICE OF PETITIONS

In re Application of :
John Paul Blouin :
Application No. 09/982,090 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 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)." Petitioner is advised that this is not a final agency decision.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action of February 13, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted with the instant petition does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application.

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 Melvin Silverman 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 Melvin Silverman desires to receive correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. Since counsel failed to include a return address on the petition, this decision is being mailed solely to the address of record.

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

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

By Hand: Customer Window
2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

Telephone inquires 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

Enclosure: 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

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

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of
Chao, et al.
Application No. 09/982,095
Filed: October 19, 2001
Attorney Docket No. CHAO=10A
For: METHOD FOR SCREENING MOLECULES THAT EXERT A NEUROTROPHIC EFFECT THROUGH ACTIVATION OF NEUROTROPHIN RECEPTORS

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed March 28, 2006, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned due to applicants' alleged failure to properly reply to the final Office action, mailed August 29, 2005. Applicants filed an amendment after final on November 28, 2005 that failed to place the application in *prima facie* condition for allowance, as was explained in the January 25, 2006 Advisory action. The Office contended that this application became abandoned on November 30, 2005. A Notice of Abandonment was mailed on March 22, 2006.

Petitioners assert that a proper reply in the form of a RCE was timely received in the Office on January 30, 2006 (a Monday). In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing January 30, 2006 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a RCE transmittal and $660.00 in fees.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on January 30, 2006. MPEP 503. Petitioners have provided a copy of the January 30, 2006 correspondence. In addition, it is noted that $660.00 in fees was processed on January 31, 2006 as a RCE filing fee and a two month extension of time.

Accordingly, the petition to withdraw the holding of abandonment is granted and the Notice of Abandonment is vacated. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1649 for consideration of the RCE filed on January 30, 2006 and resubmitted with the instant petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/8/08

TO SPE OF : ART UNIT 2457 2457

SUBJECT : Request for Certificate of Correction for Appl. No.: 09982106 Patent No.: 7389359

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**.

changes to claims approved?

M. Irvine
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: _____

APPROVED
By /Ario Etienne/ at 3:42 pm, Mar 24, 2009

SPE

2457
Art Unit

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

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,389,359 B2

APPLICATION NO.: 09/982,106

ISSUE DATE : June 17, 2008

INVENTOR(S) : Nitin Jain et al.

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

Column 12, line

Claim 10, ~~line~~ 4: change "receiving" to "means for receiving"

Column 14, line 39

Claim 21, ~~line~~ 3: change "for" to "in"

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

Thelen Reid Brown Raysman & Steiner LLP
P.O. Box 640640
San Jose, CA 95164

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.**

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JAN 26 2005

FULBRIGHT & JAWORSKI, LLP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

In re Application of	:
Gabriel Lopez-Berestein et al	:
Serial No.: 09/982,113	: PETITION DECISION
Filed: October 17, 2001	:
Attorney Docket No.: UTSC:660US	:

This is in response to the petition under 37 CFR 1.181, filed November 4, 2004, requesting entry of an amendment after Final rejection.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on February 20, 2004, setting a three month shortened statutory period for reply, which set forth three separate rejections under 35 U.S.C. 103(a). Applicants filed an amendment on April 14, 2004, in which claim 54 was amended to delete part of a phrase and limit the composition lipid material to DMPC and water, a limitation imported from claim 138 which was canceled. By Advisory Action, mailed June 4, 2004, the examiner refused entry of the amendment as raising new issues, specifically under 35 U.S.C. 112, second paragraph. Applicants filed a Notice of Appeal on July 6, 2004. accompanied by an Appeal Brief. The Appeal Brief was deemed defective by Notice mailed October 1, 2004, which set a non-extendable one month time period for reply, in that it failed to address the rejection of claims 54-60 and 131-137 (presented prior to Final Office action). Applicants filed this petition on November 4, 2004, accompanied by a new amendment of the claims and a new Appeal Brief.

DISCUSSION

Applicants argue that the reasons for non-entry of the first amendment after Final Office action are not entirely clear on the record. However, the Advisory Action clearly states that the amendment would raise new issues under 35 U.S.C. 112, second paragraph. Applicants' amendment changes the latter part of claim 54 from "wherein said lipid material comprises DMPC and one or more of soybean oil and water" to "wherein said lipid material comprises DMPC and water". Such amendment would be proper if it were not that dependent claim 141 states that the "lipid material comprises DMPC, SO and water". Claim 141 clearly adds materials to the lipid material not found in claim 54 thus raising a consideration under 35 U.S.C. 112, second paragraph. In light of this the examiner's refusal to enter the amendment was not

improper. Applicants' telephone inquiries as noted in the petition did not resolve the problem. However, applicants had ample opportunity to further amend the claims prior to filing of the Appeal Brief and chose not to do so.

It is noted that applicants have filed a new Appeal Brief concurrently with a new amendment of the claims and this petition. This amendment has not been reviewed by the examiner for possible entry nor has the Appeal Brief been reviewed to determine if it complies with current rules applicable thereto.

The petition is **DENIED with respect to entry of the amendment filed April 14, 2004, only**.

The application will be forwarded to the examiner for consideration of the amendment and Appeal Brief filed November 4, 2004.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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MAR – 8 2005

FULBRIGHT & JAWORSKI, LLP
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

In re Application of	:
Gabriel Lopez-Berestein et al	:
Serial No.: 09/982,113	: PETITION DECISION
Filed: October 17, 2001	:
Attorney Docket No.: UTSC:660US	:

This is in response to the renewed petition under 37 CFR 1.181, filed February 18, 2005, requesting review of the petition decision mailed January 26, 2005.

The petition decision has been thoroughly reviewed, but will not be revised.

As stated, "the Advisory Action clearly states that the amendment filed April 14, 2004, would raise new issues under 35 U.S.C. 112, second paragraph. Applicants' amendment changes the latter part of claim 54 from "wherein said lipid material comprises DMPC and one or more of soybean oil and water" to "wherein said lipid material comprises DMPC and water". Such amendment would be proper if it were not that dependent claim 141 states that the "lipid material comprises DMPC, SO and water". Claim 141 clearly adds materials to the lipid material not found in claim 54 thus raising a consideration under 35 U.S.C. 112, second paragraph."

Applicants argue that claim 141 had been under consideration without amendment since November, 2003. While this is correct, it always depended properly from claim 54 which recited up to three elements for the lipid composition. By limiting claim 54 to only two elements for the lipid composition, unamended claim 141 became subject to indefiniteness under 35 U.S.C. 112, second paragraph. For this reason the amendment was refused entry.

The renewed petition is **DENIED**.

The application will be forwarded to the examiner for consideration of the amendment and Appeal Brief filed November 4, 2004.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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Paper No. 8

Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

MAILED

SEP 17 2002

Technology Center 2100

In re Application of:
David J. Kinsella, et al.
Application No. 09/982,114
Filed: October 17, 2001
For: METHODS AND APPARATUSES FOR PERFORMING SECURE TRANSACTIONS WITHOUT TRANSMITTING BIOMETRIC INFORMATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 27, 2002.

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

The request is signed by David Bahler alone and does not contain a clear indication that Mr. Bahler is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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

FOR

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Fulbright & Jaworski L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

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OCT 11 2002

Technology Center 2100

In re Application of: David J. Kinsella, et al.)
Application No. 09/982,114)
Filed: October 17, 2001)
For: METHODS AND APPARATUSES FOR PERFORMING SECURE TRANSACTIONS WITHOUT TRANSMITTING BIOMETRIC INFORMATION) **DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

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

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

The request is **GRANTED**.

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

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

cc: Mr. David Kinsella
117 Medalist
Austin, TX 78734

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JAN 12 2004

Office of the Director
Group 3600

Alan Kamrath
RIDER BENNETT EGAN & ARUNDEL, LLP
Suite 2000
333 South Seventh Street
Minneapolis, MN 55402

In re Application of
Thomas E. Isaman, et al.
Application No. 09/982,126
Filed: October 17, 2001
For: SIMPLE, DURABLE AND EASY TO USE EARTHWORKING MACHINE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to a copy of an amendment received by facsimile transmission from applicant on October 8, 2003 which has been treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated February 20, 2003 and a Notice to that effect was mailed on September 17, 2003.

While the copy of the amendment includes a Certificate of facsimile Transmission date of March 24, 2003 any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

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

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/5/03

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FEB 25 2004

Office of the Director
Group 3600

Alan Kamrath
RIDER BENNETT EGAN & ARUNDEL, LLP
Suite 2000
333 South Seventh Street
Minneapolis, MN 55402

In re Application of
Thomas E. Isaman, et al.
Application No. 09/982,126
Filed: October 17, 2001
For: SIMPLE, DURABLE AND EASY TO USE EARTHWORKING MACHINE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 23, 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 March 24, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/2/8/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

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PAPER NO.

DANIEL S. POLLEY
MALIN, HALEY & DIMAGGIO, P.A.
1936 SOUTH ANDREWS AVENUE
FORT LAUDERDALE FL 33316

COPY MAILED

SEP 2 3 2003

OFFICE OF PETITIONS

In re Application of :
Nathaniel Heard :
Application No.: 09/982,134 : ON PETITION
Filed: October 18, 2001 :
Attorney Docket No. 9692.6805 :

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

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 20, 2001. The notice required the statutory basic filing fee, an oath or declaration under 37 CFR 1.63 and the requisite surcharge, as well as an abstract and substitute drawings in compliance with 37 CFR 1.84. Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned on March 26, 2002.

The petition, as supplemented, is **GRANTED**.

The application file is being returned to Initial Patent Examination Division (OIPE) for further consideration of the substitute drawings filed June 30, 2003, and the abstract and declaration filed September 15, 2003.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

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Paper No. 5

Malin, Haley & DiMaggio, P.A.
1936 South Andrews Avenue
Fort Lauderdale, FL 33316

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JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of
Nathaniel Heard
Application No. 09/982,134
Filed: October 18, 2001
Attorney Docket No. 9296.6805

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

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

This petition lacks item (1) above. The filing fee, surcharge and substitute drawings have been received. There is, however, no indication that the oath/declaration and abstract as required by the Notice to File Missing Parts of NonProvisional Application of November 20, 2001 have been submitted. Accordingly, this application cannot be revived until a signed oath/declaration and abstract not to exceed 150 words in length, commencing on a separate sheet have been submitted.

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

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

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

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

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.

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

Sherry Brinkley
Petitions Examiner

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of :
Wolfgang REIK et al. :
Application No. 09/982,136 : ON PETITION
Filed: October 12, 2001 :
Attorney Docket No. 3191/OJ838 :

This is a decision on the petition under 37 CFR 1.181, filed June 1, 2005, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to file a timely reply to the Office letter mailed October 13, 2004. A Notice of Abandonment was mailed May 23, 2005.

Petitioner asserts that the Notice of Abandonment mailed May 23, 2005 be withdrawn as it was premature because the Office letter, i.e., the Examiner's Answer, mailed October 13, 2005 did not require a response from appellant.

A review of the Examiner's Answer mailed October 13, 2005 does not indicate that there was a new ground of rejection or that a response was due from appellant. Accordingly, the Notice of Abandonment mailed May 23, 2005 is withdrawn as premature.

The application is being referred to the Technology Center AU 3682 for further processing in accordance with the above decision.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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JUN 18 2004

td

Mailed :
In re Application of
Jean C. Congard et al.
Serial No. 09/982,141
Filed: October 19, 2001
For: DEVICE AND METHOD FOR SUPPLYING ATOMIZERS, AND SPRAYING INSTALLATION EQUIPPED WITH SUCH A DEVICE

: DECISION ON
: PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed August 6, 2003 and made final in the office action mailed October 16, 2003.

On August 6, 2003, a two way restriction requirement was made by the examiner. The examiner took the position that the groupings of claims were related as process and apparatus for its practice. Applicants traversed the restriction requirement in a response filed September 8, 2003. The examiner repeated the restriction requirement in an office action mailed October 16, 2003 and made the restriction requirement final. Applicants continued to argue the restriction requirement in a response filed January 15, 2004. Applicants added a linking claim in this response. The examiner prepared an action that was mailed on February 5, 2004 stating that the application was in condition for allowance except for the presence of non-elected claims with traverse. Applicants were given a one month time period to either cancel the non-elected claims or take other appropriate action. On May 6, 2004 a new non-final office action was mailed, withdrawing the indicated allowability of claims 7 and 11. Claims 1-6, 12 and 13 were withdrawn from consideration as being drawn to a non-elected invention.

On March 5, 2004, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(c) of the MPEP state:

803 Restriction - When Proper
Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - §

806.05(e) Process and Apparatus for Its Practice — Distinctness
In applications claiming inventions in different statutory categories, only one-way distinctness is generally needed to support a restriction requirement. See MPEP § 806.05(c).
Process and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process.
If the apparatus claims include a claim to "means" for practicing the process, the claim is a linking claim and must be examined with the elected invention. If it is ultimately allowed, rejoinder is required. See MPEP § 809.04.

In making the restriction final, the examiner states that the inventions are distinct because the apparatus as claimed can be used to perform another process. The examiner explains that the apparatus could be used in a process in which the apparatus could be used to supply cleaning products.

Petitioner argues that the material differences argued by the examiner are contrary to the limitations of the device claims. It is argued that claim 1 requires a device for supplying coating products. Thus the device is for supplying precisely the same products as the claimed method.

This argument is not persuasive. It is well settled that method limitations and/or intended use limitations do not distinguish a claimed apparatus over a prior art apparatus. The limitation that the device is for supplying coating products does not impart any structure to the actual apparatus but is rather an intended use limitation. Because the intended use limitations do not have any bearing on the structure claimed, the examiner has in fact drawn a distinction with the apparatus as claimed. Therefore, the original restriction is proper.

The linking claim added by applicants will now be addressed.

Section 809 of the MPEP states in part:

809 Claims Linking Distinct Inventions

Where, upon examination of an application containing claims to distinct inventions, linking claims are found, restriction can nevertheless be required. See MPEP § 809.03 for definition of linking claims.

The linking claims must be examined with the invention elected, and should any linking claim be allowed, the restriction requirement must be withdrawn. Any claim(s) directed to the nonelected invention(s), previously withdrawn from consideration, which depends from or includes all the limitations of the allowable linking claim must be rejoined and will be fully examined for patentability. Where such withdrawn claims have been canceled by applicant pursuant to the restriction requirement, upon the allowance of the linking claim(s), the examiner must notify applicant that any canceled, nonelected claim(s) which depends from or includes all the limitations of the allowable linking claim may be reinstated by submitting the claim(s) in an amendment. Upon entry of the amendment, the amended claim(s) will be fully examined for patentability.

In the instant application, the examiner did not correctly follow the guidelines set forth above. Linking claim 13 should have been examined along with the elected claims and treated in the non-final office action mailed May 6, 2004. Accordingly, the petition to withdraw the restriction requirement is **GRANTED-IN-PART**. The application is being forwarded to the examiner to examine linking claim 13 along with the other elected claims.

If the linking claim is found to be allowable, then the restriction must be withdrawn. If the examiner finds that the linking claim is not allowable, then the restriction requirement can be maintained. A new non-final office action should be prepared including treatment of linking claim 13, and if necessary, withdrawal of the restriction requirement.

JMStone

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

BROWDY AND NEIMARK, P.L.L.C.
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WASHINGTON DC 20001-5303

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,214	10/17/2001	Sridatta Viswanath	5681-90700	7390

58467 7590 05/15/2008

MHKKG/SUN
P.O. BOX 398
AUSTIN, TX 78767

EXAMINER	
ELISCA, PIERRE E	
ART UNIT	**PAPER NUMBER**
3621	

MAIL DATE	DELIVERY MODE
05/15/2008	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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FROM DIRECTORS OFFICE

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TECHNOLOGY CENTER 3600

MHKKG/SUN
P.O. Box 398
Austin, Texas 78767

In re application of
Sridatta Viswanath et al.
Application No. 09/982,214
Filed: October 17, 2001
For: **DOCUMENT EXCHANGE FRAMEWORK FOR AUTOMATED EXTENSIBLE MARKUP LANGUAGE DATA IN AN E-PROCUREMENT SYSTEM AND METHOD**

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 C.F.R. §1.144

This is in response to the petition filed on December 5, 2005 to request that the restriction requirement mailed April 7, 2005 be withdrawn.

Applicants petition for review of the restriction requirement, in conformance with Applicants' right to due process under the Administrative Procedures Act and suitable remedy in the form of withdrawal of the restriction requirement for having been allegedly denied due process.

The petition is **GRANTED**.

A review of the file history indicates a written restriction requirement (1st Restriction) was mailed by the USPTO on December 14, 2004. The 1st Restriction divided original claims 1-30 in two ways. Invention I (*i.e.* claims 1-16) was drawn to an electronic purchasing and procurement system and classified in class 705, subclass 26 while Invention II (i.e. claims 17-30) was drawn to a document exchange framework and method of providing XML content from a database and classified in class 707, subclass 523.

In response to the 1st Restriction, Applicants filed a response on January 18, 2005. In the January 18th response, Applicants elected Invention II without traverse and filed a claim amendment. In the January 18, 2005 amendment, Applicants cancelled claims drawn to Invention 1 (*i.e.* claims 1-16), amended claims 17-19 and 25, and added new claims 31-45. Also in the response to the 1st Restriction, Applicants argued that claims 31-45 should be grouped with Invention II since the newly added claims relate to a

document exchange framework for processing in-bound and out-bound documents in an electronic procurement system.

After considering Applicants' response to the 1st Restriction, the USPTO mailed a non-final office action (First Non Final Office Action) on April 7, 2005. In the First Non Final Office Action, the examiner added a third group to the 1st Restriction, namely Invention III. According to the First Non-Final Office Action, Invention III was classified in class 705, subclass 26. In accordance with MPEP §811.02, the First Non Final Office Action went on to state that Inventions I and III are also restrictable and therefore subject to a second restriction (2nd Restriction) because they are subcombinations usable together. It is noted that in accordance with MPEP §806.05(d), subcombinations usable together are restrictable if they can be shown to be separately usable. In particular, the 2nd Restriction stated that Invention III has separate utility because it requires the use of tag names which are not required for Invention I. The 2nd Restriction also went on to state that "[b]ecause these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper."

In response to the First Non Final Office Action and the 2nd Restriction, Applicants filed a response on July 11, 2005. In the July 11, 2005 response, Applicants inter alia, traversed the 2nd Restriction on the grounds that Inventions I and III are *not* disclosed as subcombinations useable together in a single combination. Instead, Applicants argue, the respective claims of Inventions I and III recite features and functionality of the same Document Exchange (XDOC) Framework. Applicants went on to argue that "[a]lthough claims 17-30 and 31-45 do vary in scope, both claim sets read on the general functionality of the XDOC Framework described in Applicants' disclosure, not on two separate subcombinations."

A review of the claims and as noted by the examiner, Inventions I and III are both classified in class 705, subclass 26. Therefore there would be no additional search by the examiner by including claims 31-45. For this reason, there appears to be little additional burden on the examiner in searching claims 31-45.

Therefore, the 2nd restriction requirement is withdrawn as improper, and the Office action mailed on March 28, 2008 is hereby **vacated**. The application is being returned to the examiner for consideration of claims 31-45 on the merits.

Any question concerning this decision should be referred to Supervisory Patent Examiner Andrew Fischer at (571) 272-6779.

Katherine Knickerbocker

for Wynn Coggins, Director
Technology Center 3600
(540) 272-5350

4/22/08

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Sridatta Viswanath	: DECISION ON REQUEST FOR
Patent Number	: 7644014	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/982,214	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

MAILED

MAR 2 8 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Jeffery M. Wilkinson
Application No.: 09/982,233
Filed: October 19, 2001
For: SELECTIVE MEDIA CAPTURE VIA A COMMUNICATION DEVICE

DECISION ON PETITION

This is a response to the petition pursuant to 37 CFR 1.59(b) and MPEP 724.05, filed January 18, 2002 to expunge information from the above identified application.

Petitioner requests that certain propriety information be expunged from the record. Pursuant to MPEP 724.05, Petitioner states a) that the submission includes a propriety document; b) that the submission has not been made public; c) that Petitioner agrees to retain the expunged information for the period of any patent with regard to which the information has been submitted; d) that the petition is being submitted on behalf of the party of interest, Nokia Corporation. The petition fee as set forth in 37 CFR1.17(I) has been paid.

The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is material, with materiality being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be material. If the information is not considered by the examiner to be material, the information will be returned to applicant. In the mean time, the identified document will be placed separate from the application file.

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

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MAIL

JUL 1 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of
Jeffery Miles Wilkinson
Appl. No.: 09/982,233
Filed: October 19, 2001
For: **SELECTIVE MEDIA CAPTURE VIA A COMMUNICATION DEVICE**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 18, 2002 to expunge information from the above identified application.

The petition is **Granted**.

Petitioner requested that the proprietary information filed January 18, 2002, be expunged from the record. Petitioner stated that the information contained trade secret material, proprietary material and/or material that was subject to a protective order which had not been made public. The petition fee set forth in 37 CFR 1.17(h) had been paid.

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

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

The expunged material had been removed from the official file.

The expunged material (page 14 of the substitute specification is returned herewith. It is noted that the subject application has issued as Patent Number **6,907,225**. However, the proprietary information had not been entered.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

Enclosure: Proprietary document (copy of prior copending application)

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Kaneko et al.	:	
Application No. 09/982,234	:	ON PETITION
Filed: October 19, 2001	:	
Attorney Docket No. 381NP/50449	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 24, 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; (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 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

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Paper No. 11

NIRAV D. PARIKH 25-LDP
OWENS-ILLINOIS, INC.
ONE SEAGATE
TOLEDO, OH 43666

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NOV 1 4 2003

OFFICE OF PETITIONS

In re Application of :
Brian J. BROZELL et al :
Application No. 09/982,249 : DECISION DISMISSING PETITION
Filed: October 16, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 17638 :

This is a decision on the petition under 37 CFR 1.137(f), filed October 3, 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 counterpart applications filed in eighteen-month countries on October 15 and 16, 2002.

A review of the file record discloses that a notice to rescind was received in the USPTO on December 2, 2002, bearing a certificate of mailing dated November 25, 2002. The notice to rescind also contains the following language: "Note: Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or international filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c)."

In the instant application, although the notice to rescind was received in the USPTO more than forty-five days after the filing date of the counterpart applications, the request to rescind included a notification of foreign filing and a certificate of mailing and, as such, was entitled to the benefit of a certificate of mailing under 37 CFR 1.8. *See* 37 CFR 1.8(a). Therefore, as a request to rescind and notification of foreign filing was filed **not later than forty-five (45)**

days after the date such counterpart application was filed (35 U.S.C. § 122(b)(2)(B)(iii), the application is not be regarded as abandoned. *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/. 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 fee has been assessed to petitioner's deposit account.

This application is being forwarded to Technology Center AU 3727 for appropriate action on the reply received August 25, 2003 to the nonfinal Office action of May 21, 2003.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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FEB 28 2002

OFFICE OF PETITIONS

LICATA & TYRRELL P C
66 E MAIN STREET
MARLTON, NJ 08053

In re Application of :
C. Frank Bennett et al :
Application No. 09/982,262 : NOTICE
Filed: October 10, 2001 :
Attorney Docket No. ISPH-0613 :

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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of Anders Vinberg :
Application No. 09/982,270 : Decision Dismissing Petitions
Filing Date: October 17, 2001 : Under 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 063170.7002 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and 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 Director may require additional where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment is not acceptable as drafted since it improperly incorporates by reference the newly listed prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment is not proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application

cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters is required.

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

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

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 Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Baker Botts LLP
Suite 600
2001 Ross Avenue
Dallas, TX 75201-2980

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of Anders Vinberg :
Application No. 09/982,270 : Decision on Petitions Under
Filing Date: October 17, 2001 : 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. 063170.7002 :

Corrected Decision:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 22, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to 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 Director may require additional 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) 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) and 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 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 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 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 applications, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 2628 for consideration by the examiner of the claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications and the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/982,270	10/17/2001	2628	1740	063170.7002	6	17	8

CONFIRMATION NO. 7992

5073
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

CORRECTED FILING RECEIPT

OC000000022656276

OC000000022656276

Date Mailed: 02/26/2007

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)

Anders Vinberg, Plandome Manor, NY;

Power of Attorney: The patent practitioners associated with Customer Number **05073**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/949,101 09/07/2001
which is a CON of 09/408,213 09/27/1999 PAT 6,289,380
which is a CON of 08/892,919 07/15/1997 PAT 5,958,012
which claims benefit of 60/021,980 07/18/1996
This application 09/982,270
claims benefit of 60/241,049 10/17/2000
and claims benefit of 60/241,051 10/17/2000

Foreign Applications

If Required, Foreign Filing License Granted: 11/20/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/982,270

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for displaying 3-D state indicators

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/16/06

TO SPE OF : ART UNIT 2615

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/982272** Patent No.: **7050870**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Smith Tram — **SPE**

2615 — **Art Unit**

PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,050,870

APPLICATION NO.: 09/982,272

ISSUE DATE : May 23, 2006

INVENTOR(S) : Masahiro SUEYOSHI, et al.

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

In claim 1, column 18, lines 36-37, should read: "the first data unit and the second data unit [originates] originate from a hierarchy-encoded data unit."

In claim 7, column 20, lines 21-22, should read: "the first data unit and the second data unit [originates] originate from a hierarchy-encoded data unit."

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

Howard I Sobelman, Esq., Snell & Wilmer L.L.P.
One Arizona Center, 400 E. Van Buren Street
Phoenix, AZ 85004-2202

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.**

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OFFICE OF PETITIONS

In re Application	:	
John Fruehauf	:	
Application No. 09/982,286	:	DECISION ON PATENT TERM ADJUSTMENT
Filed: October 16, 2001	:	
Attorney Docket No. 97,150-C	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed June 1, 2007, requesting correction of the initial determination of patent term adjustment (PTA) from nine hundred ninety (990) days to one thousand seventy (1070) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand seventy (1070) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 1, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is nine hundred ninety (990) days. On June 1, 2007, Applicant 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 one thousand seventy (1070) days.

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[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

Applicant asserts entitlement to a patent term adjustment of one thousand seventy (1070) days on the basis that the PTO improperly assessed Applicant a delay of eighty (80) days for filing an Information Disclosure Statement (IDS) on May 10, 2002, after Applicants had filed a response to a "Notice of Non-Compliant Amendment (37 CFR 1.121)" on February 19, 2002.

Applicant fails to state whether the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of nine hundred ninety (990) days based on an adjustment for PTO delay of one thousand, one hundred one (1101) 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 eighty (80) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8) and five (5), six (6), and twenty (20) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 80 days is at issue.

The application was filed with a preliminary amendment on October 16, 2001. The Office then mailed a "Notice of Non-Compliant Amendment (37 CFR 1.121) on January 17, 2002. Applicant filed a complete reply on February 19, 2002. Prior to the first Office action under 35 USC 132 being mailed, Applicant filed an IDS on May 10, 2002, and was assessed delay of eighty (80) days. However, Applicant should not have been assessed any delay for this filing. It was not supplemental to the February 19, 2002 reply.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one thousand seventy (1070) days** (1101 days of PTO delay and 31 (20+5+6) days of applicant delay).

Receipt of $200 fee under § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Legal Advisor
Office of Petitions

Enc: updated PAIR screen (2 pages)

PTA Calculations for Application: 09/982286			
Application Filing Date:	10/16/2001	PTO Delay (PTO):	1101
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	1070
PTO Delay Adjustment:	80		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
60	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	80		
53	03/01/2007	MAIL NOTICE OF ALLOWANCE			
52	03/01/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
51	02/27/2007	ISSUE REVISION COMPLETED			
50	02/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	02/20/2007	NOTICE OF ALLOWABILITY			
48	02/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	12/06/2006	DATE FORWARDED TO EXAMINER			
46	11/28/2006	RESPONSE AFTER NON-FINAL ACTION			
45	11/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
44	08/28/2006	MAIL NON-FINAL REJECTION			
43	08/23/2006	NON-FINAL REJECTION			
42	07/28/2006	PARALEGAL TD ACCEPTED			
41	07/27/2006	DATE FORWARDED TO EXAMINER			
40	07/25/2006	AMENDMENT AFTER FINAL REJECTION			
39	05/25/2006	MAIL FINAL REJECTION (PTOL - 326)			
38	05/24/2006	FINAL REJECTION			
37	05/10/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	05/10/2002	REFERENCE CAPTURE ON IDS			
35	05/10/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		80	13
34	03/27/2006	DATE FORWARDED TO EXAMINER			
33	03/20/2006	RESPONSE AFTER NON-FINAL ACTION		20	30

32	03/09/2006	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
31	03/09/2006	DATE FORWARDED TO EXAMINER			
30.1	02/28/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
30	02/28/2006	RESPONSE AFTER NON-FINAL ACTION		6	28
29	02/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	11/22/2005	MAIL NON-FINAL REJECTION			
27	11/18/2005	NON-FINAL REJECTION			
26	11/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
25	10/06/2005	DATE FORWARDED TO EXAMINER			
24	09/29/2005	RESPONSE TO ELECTION / RESTRICTION FILED		5	21
23	09/29/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	06/24/2005	MAIL RESTRICTION REQUIREMENT	1101		13
20	06/22/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
19	10/21/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	10/20/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	03/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
16	12/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
15	04/19/2002	RESETTING OF A CPA TO NEW CASE STATUS OF 030			
14	04/09/2002	DATE FORWARDED TO EXAMINER			
13	02/19/2002	RESPONSE AFTER NON-FINAL ACTION			
8	01/17/2002	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
6	01/17/2002	MISCELLANEOUS ACTION WITH SSP			
5	01/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	11/08/2001	APPLICATION DISPATCHED FROM OIPE			
3	11/07/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/25/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/16/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Paper No. 4

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Movaghar, del Rosario, Diel, and	:	
Schmeling	:	
Application No. 09/982,327	:	DECISION REFUSING STATUS
Filed: 17 October, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 10960502-8	:	

This is in response to the communication captioned "Statement of Facts Regarding Non-Signing Inventor)" filed on 21 February, 2002, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED**.

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

The above-identified reissue application was filed on 17 October, 2001, with a declaration naming Abdolreza Movaghar, Josephine del Rosario, Mark Diel, and David J. Schmeling as joint inventors and signed by all of the joint inventors except Diel on behalf of themselves and joint inventor Diel.

Accordingly, on 29 November, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Reissue Application, requiring an oath or declaration with the signature of inventor Diel and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 21 February, 2002 (certificate of mailing date 29 January, 2002), petitioners filed the present petition, accompanied by authorization to charge the petition fee.

Petitioners state that a copy of the application papers were sent to joint inventor Diel, but were returned as undeliverable.

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

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

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

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

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

The petition lacks items (1), (2), and (5).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor.[1] At the outset, the petition states that petitioners' "received a call stating that Mark [Diel] has not lived at this address for at least the past four years." Petitioners have not shown that any efforts were made to obtain a more recent address. A brief Internet search reveals that Diel may now be residing in Menlo Park, CA. Petitioners should show that diligent efforts were made to give or send a copy of the application papers (specification, claims, drawings, if any, and the declaration) at the inventor's last known address. Petitioners should submit a copy of the cover letter transmitting the application papers to the nonsigning inventor at the last known address or, if presented in hand affidavits or declarations of facts by a person having first-hand knowledge of the details thereof.

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[1] MPEP 409.03(d).

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

In regards to item (2), the declaration contains is defective in that it contains non initialed and/or non-dated alterations.[2] Specifically, there is an uninitialed and/or undated alteration in the signature block for joint inventor Schmeling. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by the inventor to whom the error or deficiency relates is required.[3]

In regards to item (5), if a more recent last known address is discovered for the last known address, that address must be provided with any renewed petition.

The petition fee of $130.00 has been charged to counsel's deposit account, No. 08-2025, as authorized on the transmittal letter accompanying the petition.

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

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[2] See 37 CFR 1.52(c).

[3] 37 CFR 1.67(a)(2).

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

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of
Movaghar, del Rosario, Diel & Schmeling
Application No. 09/982,327
Filed: October 17, 2001
Attorney Docket No. 10960502-8
For: APPARATUS FOR SECURING CCD BOARD AT A FIXED POSITION WITHIN A RANGE OF MOTION

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

Papers filed on June 12, 2002 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on May 20, 2002, included a Declaration signed by the previously nonsigning inventor, Mark Diel, in compliance with 37 CFR 1.63. In addition, David J. Schmeling has signed a supplemental declaration correcting the non-dated, non-initialed change to his address.

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 returned to the Office of Initial Patent Examination for further processing.

Inquiries related to this decision may be addressed to the undersigned at (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

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Paper No. 13

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re :
Movagher et al. :
Reissue Application No. 09/982,327 : DECISION ON PETITION
Filed: October 17, 2001 :
Reissue of Patent No. 5,998,786 :
Original Issue Date: December 7, 1999 :
Attorney Docket No. 10960502-8 :

This is a decision on the "PETITION TO ACCORD THE PROPER FILING DATE," filed November 12, 2003, requesting that the above-identified application be accorded a filing date of October 17, 2001, rather than the presently accorded filing date of February 21, 2002. The petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

Application papers in the above-identified reissue application were received in the Office on October 19, 2001 by way of deposit on October 17, 2001 with the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS). On November 29, 2001, a Notice to File Missing Parts of Reissue Application - Filing Date Granted was mailed in this application. Accordingly, the Notice stated that a filing date of October 17, 2001 had been accorded to the reissue application; however, the signature of Mark Diel was missing from the oath or declaration and the reissue specification was not in double-column format.

In response, on February 21, 2002, applicants responded with the required items. Then, on October 18, 2002, the Office mailed a filing receipt showing a filing date of February 21, 2002.

Petitioner maintains that the above-identified application was deposited in the United States Postal Service (USPS) Express Mail Service on October 19, 2001, and thus, is entitled to that date as the filing date of the application. In support thereof, petitioner submitted copies of the Application Transmittal, bearing Express Mail mailing label No. EV668678953US; the "Express Mail" mailing label No EV668678953US, bearing a date-in of October 17, 2001; a date-stamped return postcard, showing that the application papers, including a copy of the prior patent and additional claims for the application assigned Application No. 09/982,327, were received in the Office on October 17, 2001; and the Official filing receipt mailed October 18, 2002, showing a filing date of February 21, 2002.

The instant evidence is persuasive and establishes as required under

§ 1.10(c)[1] that the instant reissue application is entitled to a filing date of October 17, 2001. (However, it is noted that the petition was not filed until more than a year after receipt of the filing receipt showing a filing date of February 21, 2002).

Nonetheless, the issue of promptness of the petition under § 1.10 is not controlling. Even if the petition was found to be not timely filed or the evidence on petition was not considered persuasive, the record supports a conclusion that the application is entitled to a filing date of October 17, 2001. In order to be complete for filing date purposes, all applications filed under 37 CFR 1.53(b) must include a specification as prescribed by 35 U.S.C. 112 containing a description pursuant to 37 CFR 1.71 and at least one claim pursuant to 37 CFR 1.75, and any drawing required by 37 CFR 1.81(a). The statutory filing fee and an oath or declaration in compliance with 37 CFR 1.63 (and 37 CFR 1.175 (if a reissue) or 37 CFR 1.162 (if for a plant patent)) are also required by 37 CFR 1.51(b) for a complete application, but the filing fee and oath or declaration may be filed after the application filing date upon payment of the surcharge set forth in 37 CFR 1.16(e). See 37 CFR 1.53(f). As reflected in the Notice mailed November 29, 2001 (and further supported by applicant's return postcard receipt), the papers received in the Office on October 19, 2001 by way of deposit on October 17, 2001 with the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) were entitled to a filing date. The Office erred in changing the filing date to the date of receipt of the items required by the Notice mailed November 29, 2001.

No petition fee is required and none has been charged.

The application filing date will be **corrected to October 17, 2001** and a **corrected filing receipt will be mailed**.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[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.

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SHOOK, HARDY & BACON, L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

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In re Application of: OUZTS, et al.
Application No. 09/982,337
Attorney Docket No. MFCP.88143
Filed: October 18, 2001
For: METHOD FOR GRAPHICAL REPRESENTATION OF A CONTENT COLLECTION

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is in response to the petition filed on November 13, 2007, under 37 CFR § 41.3, which is being treated under 37 CFR §1.181.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed November 13, 2007 includes elements (1) and (2) above.

The petition is **DISMISSED (as premature)**, as indicated below.

RECENT PROSECUTION HISTORY

On August 17, 2007, an appeal brief was filed by Appellant.

On October 30, 2007, a Notification of Non-Compliance with 37 CFR § 41.37 was mailed to Appellant.

On November 13, 2007, the instant petition under 37 CFR §1.181 was filed, along with an amended appeal brief.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests the following relief: patent-term credit for any delaying stemming from the Office's Notice of Non-Compliant Appeal Brief.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Emphasis is added to draw attention to critical phrases.

2730 [R-2] Applications Filed on or After May 29, 2000; Grounds for Adjustment - 35 U.S.C. 154(b)

(3) PROCEDURES FOR PATENT TERM ADJUSTMENT DETERMINATION. —
(A) The Director shall prescribe regulations establishing procedures for the application for and determination of patent term adjustments under this subsection.
(B) Under the procedures established under subparagraph (A), the Director shall —
(i) make a determination of the period of any patent term adjustment under this subsection, **and shall transmit a notice of that determination with the written notice of allowance** of the application under section 151; and
(ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

37 CFR 1.705. Patent term adjustment determination

(a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).

In accordance with 35 U.S.C. 154(b) and 37 CFR § 1.705 a notice of allowance, when mailed in a patent application, will include notification to Applicant of any patent term adjustment due. The instant application has not yet been allowed.

DECISION

Accordingly, the petition is **DISMISSED (as premature)**.

The application is being forwarded to the Examiner for prompt consideration of the amended appeal brief filed November 13, 2007. Note to Appellant, the filing of an amended Appeal Brief for consideration by the Examiner in response to the Notice of Noncompliant Appeal Brief renders consideration of the propriety of the notice moot.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

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GRAY CARY WARE & FREIDENRICH LLP
2000 UNIVERSITY AVENUE
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OFFICE OF PETITIONS

In re Application of
Sohrab Kianian et al
Application No. 09/982,413
Filed: October 17, 2001
Attorney Docket No. 2102397-992010

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed May 10, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 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) 305-8680.

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Sohrab Kianian et al	:	
Application No. 09/982,413	:	DECISION GRANTING PETITION
Filed: October 17, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2102397-992010	:	

This is a decision on the petition, filed August 11, 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 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE DIRECTOR
TC 3600

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

Paper No. 5

In re Application of :
Darl Dufendach :
Application No. 09/982,423 :
Filed: October 18, 2001 :
For: SLIDER LEVER WITH KNOB LOCKING FEATURE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on October 16, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on March 19, 2003. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

cps/1/27/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK, NY 10154-0053

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JUL 1 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Lorenzo De Ferra et al	:	
Application No. 09/982,468	:	NOTICE
Filed: October 18, 2001	:	
Attorney Docket No. 0558-4017	:	

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 1626.

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

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

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NOV 22 2006

OFFICE OF PETITIONS

In re Application of :
DE LAAT, et al. :
Application No. 09/982,474 : DECISION ON PETITION
Filed: October 17, 2001 : TO WITHDRAW
Attorney Docket No. 246152012710 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 12, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Thomas Ciotti of MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on September 14, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **NIXON & VANDERHYE, PC**
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: March 12, 2003

DJ

Paper No.11

In re application of: YUJI KATSUDA ET AL
Serial No.: 09/982,484
Filed: October 18, 2001
For: MATERIAL OF LOW VOLUME RESISTIVITY, AN ALUMINUM NITRIDE SINTERED BODY AND A MEMBER USED FOR THE PRODUCTION OF SEMICONDUTORS

DECISION ON PETITION

This is a decision on the PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(a)(2) and (b)(2), filed October 18, 2001 to permit color photographs since (1) the fee as required by 37 CFR 1.17(h) has been authorized, (2) three sets of the color photographs have been filed, (3) the specification includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation is provided stating why color photographs are necessary. The color photographs are for Figures 4, 5, 6, and 7.
A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **GRANTED**.

Deborah Jones
SPE Art Unit 1775
Technology Center 1700

Kevin Brown
BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

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

Gordon D. Kinder
Renner Otto Boisselle & Sklar
1621 Euclid Avenue, 19th Floor
Cleveland, OH 44115-2191

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MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of :
William E. Bartasevich, Jr. :
Application No. 09/982,499 : ON PETITION
Filed: October 18, 2001 :
Attorney Docket No. :
CREPP0154US

This is a decision on the petition under 37 CFR 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 non-final office action mailed May 8, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on August 9, 2003.

The application file is being forwarded to Technology Center AU 3727 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 15

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Boyd et al. :
Application No. 09/982,502 : DECISION ON PETITION
Filed: October 18, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT0279 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 14, 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**.

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 some of the prior-filed applications, albeit subsequent to the filing date of this application. In this regard, on filing; the specification (at one) incorporated application Nos. 08/281,891 filed July 28, 1994, and 08/023,778, filed February 22, 1993, and, at best, the transmittal letter expressly incorporated 09/487,024 filed January 19, 2000. Since the section 120 amendment proffered with the petition also seeks to now incorporate by reference: 09/019,014 filed February 5, 1998; and 08/486,941 filed June 7, 1995, the amendment is facially improper.

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 substitute amendment[1] deleting the incorporation by reference statement to the extent it includes 09/019,014 filed February 5, 1998; and 08/486,941 filed June 7, 1995, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) has been charged to petitioner's Deposit Account

---

[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 Brian Hearn at (703) 305-1820.

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. 18

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Boyd et al. :
Application No. 09/982,502 : DECISION ON PETITION
Filed: October 19, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT-0279 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on July 15, 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 18, 2001, and was pending at the time of filing of the original 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) 305-1820..

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Boyd et al. :
Application No. 09/982,503 : DECISION ON PETITION
Filed: October 19, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT0281 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 15, 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**.

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 some of the prior-filed applications, albeit subsequent to the filing date of this application. In this regard, on filing; the specification (at one) incorporated application Nos. 08/281,891 filed July 28, 1994, and 08/023,778, filed February 22, 1993, and, at best, the transmittal letter expressly incorporated 09/487,024 filed January 19, 2000. Since the section 120 amendment proffered with the petition also seeks to now incorporate by reference: 09/019,014 filed February 5, 1998; and 08/486,941 filed June 7, 1995, the amendment is facially improper.

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 substitute amendment[1] deleting the incorporation by reference statement to the extent it includes 09/019,014 filed February 5, 1998; and 08/486,941 filed June 7, 1995, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

As authorized, the $1330 fee required by 37 CFR 1.78(a)(3)(ii) has been charged to petitioner's Deposit Account

---

[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 Brian Hearn at (703) 305-1820.

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
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Paper No. 10

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Boyd et al. :
Application No. 09/982,503 : DECISION ON PETITION
Filed: October 19, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT0281 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on July 15, 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 19, 2001, and was pending at the time of filing of the original 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) 305-1820..

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Brian Hearn
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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

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OCT 1 0 2003

Technology Center 2100

TROUTMAN SANDERS LLP
Bank of America Plaza, Suite 5200
600 Peachtree Street, N.E.
Atlanta, GA 30308-2216

In re Application of
Aleksander SZLAM, et al.
Application No. 09/982,514
Filed: October 18, 2001
For: METHOD FOR CONSOLIDATION OF MULTIPLE DATA SOURCES

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed September 4, 2003.

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

The request 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: Melita International, Inc.
Attn: Legal/Patent Department
5051 Peachtree Corners Circle
Norcross, GA 30092-2500

MAR 07 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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

KILPATRICK STOCKTON LLP
ATTN: JOHN PRATT
SUITE 2800
1100 PEACHTREE STREET
ATLANTA, GA 30309-4530

In re Application of
MADSEN et al.
Serial No.: 09/982,516
Filing Date: 18 October 2001
Attorney Docket No.: 05213-0561WP (43170-250438)
For: METHOD OF PRODUCING AND PURIFYING ANGIOSTATIN PROTEIN

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

Applicant's petition under 37 CFR 1.137(b) filed 18 October 2001 to revive international application PCT/US00/32843 as to the United States abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as follows:

International application PCT/US00/32843 became abandoned as to the United States of America after midnight on 03 August 2001 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "the entire delay in prosecuting the application from the date of 03 August 2001 until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" has been interpreted as meaning that "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(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

International application PCT/US00/32843 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/982,516.

This application is being forwarded to Office of Initial Patent Examination for further examination as an application filed under 35 U.S.C. 111(a), having a filing date of 18 October 2001.

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

703-306-5467

03/08/2002 MNGUYEN 00000125 09982516

01 FC:241 640.00 OP

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Paper No. 10

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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JUN 25 2003

OFFICE OF PETITIONS

In re Application of
Hand, et al.
Application No. 09/982,528
Filed: October 19, 2001
Attorney Docket No. 06886.0005-00
For: MEDICAL SERVICING SYSTEM

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 29, 2003, to change the order of inventorship.

The petition is GRANTED.

The first named inventor is now Barry Hand. A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be returned to Technology Center 3600.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt

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

Paper No. 9

Francisco A. Rubio-Campos
Sonnenschein Nath & Rosenthal
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago IL 60606

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OCT 22 2002

OFFICE OF PETITIONS

In re Application of :
HIOK-NAM TAY :
Application No. 09/982,540 : DECISION ACCORDING STATUS
Filed: October 17, 2001 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 09785980-0054 :

This is in response to the petition under 37 CFR 1.47(b), submitted on June 4, 2002 (certificate of mailing May 20, 2002).

The petition is **granted**.

Petitioner has shown that Hiok-Nam Tay, 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 Declaration of Facts of Vincent P. Tassinari establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but refused the request that he sign the declaration. In addition, petitioner has shown that Conexant Systems, Inc. has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Conexant Systems. Petitioner provided authorization to charge the Deposit Account for any necessary fees. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $130.00 petition fee and the $1,440.00 four-month extension of time fee to file a timely reply have been charged to Deposit Account No. 19-3140, as authorized by petitioner

The application file will be forwarded to the Office of Initial Patent Examination for further processing.

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

Christina Tartera Donnell

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Hiok-Nam Tay
6 Mount Vernon
Irvine, CA 92620

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OCT 2 2 2002

OFFICE OF PETITIONS

In re Application of :
HIOK-NAM TAY :
Application No. 09/982,540 : LETTER
Filed: October 17, 2001 :
Attorney Docket No. 09785980-0054 :

Mr. Tay:

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(b), 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
Senior Petitions Attorney
Office of Petitions
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Sonnenschein Nath & Rosenthal
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#14
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 11 2003

Jordan and Hamburg LLP
122 East 42nd Street
Suite 4000
New York, NY 10168

MAILED

JUN 11 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of :
Olaf Weissmueller et al. :
Application No. 09/982,563 :
Filed: October 18, 2001 :
For: CONVERTIBLE WITH A ROOF, WHICH CAN BE STOWED IN THE REAR REGION OF THE VEHICLE BELOW A LID :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on March 24, 2003.

The petition is **DISMISSED as moot**.

A review of the application file reveals that an Office action was mailed August 27, 2002 wherein a three-month shortened statutory period for reply was set. Since no response had been matched with the file and the six-month statutory period for response had expired, the application was held to be abandoned and a notice to that effect was mailed March 6, 2003.

A further review reveals that the original amendment of March 4, 2003 has since been matched with the file. That original amendment is timely. Since a timely response to the Office action of August 27, 2002 has been filed, the abandonment will be withdrawn. Since the original of the amendment in question is now in the file, there is no need to treat the petition on the merits and it is therefore dismissed as moot.

This application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment, return the application to pending status and enter the original amendment filed March 4, 2003 before forwarding to the examiner for treatment on the merits.

Randolph A. Reese

Randolph A. Reese, Special Program Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-2121
Facsimile No.: (703) 605-0586

RAR/tpl: 6/3/03

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Paper No. 9

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PASADENA CA 91101

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JUL 2 8 2003

OFFICE OF PETITIONS

In re Application of
Teran
Application No. 09/982,570
Filed: October 16, 2001
Attorney Docket No. 13817-3
For: METHOD FOR TENDERIZING PORK

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed July 18, 2003, to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed on March 21, 2002, that required submission of an executed declaration and surcharge for its late filing within two (2) months of the mail date of the Notice. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioner asserts that a proper response was in fact timely deposited with the USPS on December 14, 2001 and received in the Office on December 20, 2001. In support, petitioner submitted a copy of his itemized, return receipt postcard dated stamped December 20, 2001 by the Office and a copy of the correspondence listed on the postcard -- 1. Response to Notice to File Missing Parts, 2. Combined Declaration and Power of Attorney, 3. Power of Attorney from Assignee, 4. Assignment with Recordation Form Cover Sheet, 5. Information Disclosure Statement with 13 references, and 6. Copy of Notice to File Missing Parts.

The return postcard constitutes *prima facie* evidence that the items listed thereon were filed on December 20, 2001. MPEP 503.

A review of the copy of the Response to Notice to File Missing Parts of Nonprovisional Application reveals that applicant listed an incorrect application number in the header. Applicant typed: "Application Number: 09/782,570." (Emphasis added). The copy of the IDS and the postcard receipt itself cite the same incorrect application number.

Even though petitioner cited the wrong application number, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the December 20, 2001 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the transmittal with Office database records would have revealed the typographical error.

Therefore, the response to the November 20, 2001 Notice was timely filed. Accordingly, the

petition is **GRANTED**, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

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

The application file will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

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

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
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MAY 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Motoki Kato :
Application No. 09/982,571 : ON PETITION
Filed: October 17, 2001 :
Attorney Docket No. 450100-4886.1 :

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 10, 2004, for failure to file a timely response to the Office communication (notification of non-responsive but *bona fide* reply) mailed on August 9, 2004, which set a one (1) month period for reply. A second Office communication mailed January 14, 2005 advised that the amendment filed September 13, 2004 with a certificate of mail dated September 8, 2004 was also non-responsive and that the period for reply ran from the mailing of the Office communication mailed August 9, 2004. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed on December 9, 2005.

The application is being forwarded to Technology Center 1639 for consideration of the response filed February 16, 2006 and for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
James A. Campbell	:	
Application No.: 09/982592	:	DECISION ON
Filing or 371(c) Date: 10/18/2001	:	PETITION
Attorney Docket Number:	:	
DO-047524/P124US/10108968	:	

This is a decision in response to the "Petition to Revive Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed October 30, 2007.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 19, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 20, 2007. A Notice of Abandonment was mailed November 13, 2007.

The present petition

Applicant files the present petition and asserts that the Notice was not received. In support of this assertion, Applicant files Affidavit of Barbara Dalbey and the Declaration of Scott Matthews.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of

a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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). Applicant lacks item (**3**).

As to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

MPEP 711.03(c)

Analysis

Applicant has failed to demonstrate that the Notice was not received. In addition to the statement from practitioner attesting to non-receipt of the Notice, Applicant must provide a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed. The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of	:	
James A. Campbell	:	
Application No.: 09/982592	:	DECISION ON
Filing or 371(c) Date: 10/18/2001	:	PETITION
Attorney Docket Number:	:	
DO-047524/P124US/10108968	:	

This is a decision in response to the renewed "Petition to Revive Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), filed.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed July 19, 2007. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on October 20, 2007. A Notice of Abandonment was mailed November 13, 2007.

The October 30, 2007 Petition

Applicant filed a petition on October 30, 2007 and asserted that the Notice was not received. In support of this assertion, Applicant filed an Affidavit of Barbara Dalbey and the Declaration of Scott Matthews.

The April 17, 2007 Decision

The petition was dismissed in a Decision mailed April 17, 2007. The Decision informed Applicant that, in addition to the statement from practitioner attesting to non-receipt of the Notice, Applicant must provide a copy of the file jacket and docket records where the nonreceived Notice would have been entered had it been received and docketed. The petition was dismissed without prejudice.

The present renewed petition

Applicant files the present renewed petition, a copy of the docket records, and the Affidavit of Barbara Dalby, Docketing Specialist for Petitioner herein, attesting to non-receipt of the Notice.

Conclusion

Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence. Accordingly, the petition is granted.

The issue fee was filed by Applicant on October 31, 2007.

The application is being referred to the Office of Data Management for processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

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JAN 1 4 2003

Technology Center 2100

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Paper No. 6

Samuel J. Haidle
Howard & Howard
Suite 101
39400 Woodward Avenue
Bloomfield Hills, MI 48304-5151

In re Application of: Andrew R. Osborn	)	**DECISION ON PETITION**
Application No. 09/982,601	)	**FOR ACCELERATED**
Filed October 18, 2001	)	**EXAMINATION UNDER 37**
For: METHOD OF COMMUNICATING	)	**C.F.R. §1.102(d) and M.P.E.P. §**
ACROSS AN OPERATING SYSTEM	)	**708.02(VIII)**

This is a decision on the petition, filed November 26, 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.

The petition is **DISMISSED**.

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

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

> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.
>
> 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.* (Italics added.)

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.

Petitioner's submission is deficient in that there is no detailed discussion of the references as required by section (E) to the extent required by 37 CFR 1.111(b) and (c). Petitioner's submission relies upon lifted phrases of each references' abstract to comply with the requirement of "a detailed discussion of the references" coupled with a statement that the particular reference does not disclose or suggest one step of the method claim. The *identical step* is used to point out how the claimed subject matter is patentable over the references identified as "most closely related" by petitioner. Furthermore, the discussion of the claimed subject matter merely asserts that the references do not "disclose or suggest extracting a second process address from one of the memory sources to determine a location of a second process to execute *prior to the completion of the execution of the executable code of the initial process in such a way as to optimize the CPU's resources and expedite the transfer of data.*" (Emphasis added.) However, neither independent Claims 1 or 35 recited "...in such a way as to optimize the CPU's resources and expedite the transfer of data" and Claim 35 does not recite the limitation "... to execute prior to the completion of the execution of the executable code of the initial process." The assertions made regarding the patentable subject matter do not match the scope of the independent claims and therefore the submission does not point out how the ***claimed subject matter*** is patentable over the references.

In addition petitioner also relied upon a PCT search report from an application not claimed by applicant in his priority statement. Yet applicant's comparison regarding those references found on page 5 of the petition states "[t]he International Preliminary Examining Authority ... concurs with Applicant's determination that the prior art does not disclose the specific method steps outlined above. In other words, the International Preliminary Examining Authority states that Claims 1-35 of the subject application meet the criteria set out in PCT Aricle 33(2)-(4) such that these claims ***are novel, include an inventive step, and meet the requirements for industrial applicability.***" It is unclear how the petitioner has arrived at this conclusion. The search report provided lists three US

patents as "Y" category documents. "Y" is defined as a "**document of particular relevance**; the claimed invention **cannot** be considered to involve **an inventive step** when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art." Again, applicant has not claimed the PCT application for priority and it cannot be assumed the claimed invention in the US application is even related to the invention evaluated for the PCT application's search report. However, since petitioner concludes that "any combination of the cited prior art references does not include each and every element of the subject method as recited in independent Claims 1 and 35 ... are not obvious in light of the cited prior art patents", it is assumed the claims are identical between the PCT filing and the US application. Petitioner's submission therefore is deficient in that there is no ***detailed discussion*** of the PCT cited references and he does not point out how the ***claimed subject matter is patentable over the references***.

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Technology Center 2100's Central Files 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.

Telephone inquires regarding this decision should be directed to the undersigned at 703-308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paper No. 9

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APR 1 3 2004

Technology Center 2100

In re Application of: Osborn
Application No. 09/982,601
Attorney Docket No. 65,270-005
Filed: October 18, 2001
For: METHOD OF COMMUNICATING ACROSS AN OPERATING SYSTEM

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 March 19, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application. The Office regrets the delay in addressing the request for reconsideration that only recently came to light.

The renewed request supplements the original petition with a preliminary amendment to Claim 35, a substitute declaration by Mr. Haidle, and a copy of the International Preliminary Examination Report (IPER). Copies of USP 4,276,594, 5,276,789, and 5,296,936 were also provided along with an unidentified paper with the header "Howard & Howard Machine Job Log" with original initials and annotations thereon.

For purposes of this application only the petition will be granted. However, there remain matters unresolved.

- The copy of the PCT/IPEA/409 has been received, but since the International Search Report (the PCT/ISA/210) cited the references as "Y" references. The PCT IPER does not fully address how the specific references (without apparent amendment) now read over the claims. (Normally, the Office would issue a PCT/IPEA/408 in this circumstance. As no copy has been provided, it is assumed none was issued.)
- The explanation found in the IPER only appears to address the limitations of Claim 1 in the instant application. The petitioner is silent as to whether the claims in the PCT were identical to the claims in the instant application. It is unknown what was the scope of the invention under consideration in the PCT application.
- The substitute declaration selects three US patents as the "closest prior art references." However, in each separate discussion, the practitioner appears to repeat the limitations found in Claim 1 except for the step of detecting an event. This begs the question of why the practitioner thought these were the closest related art. In essence, the practitioner is stating

that none of the cited art has any of the steps claimed. The practitioner has chosen to discuss the prior art in terms of the disclosure of the respective references and not in the language of his own claimed invention. In addition, the discussion barely passes muster as to whether it addresses with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references.

The petition is **GRANTED**. The application has been granted special status. The practitioner is advised to address the noted deficiencies with further clarification in future petitions.

The applicant is advised that unless the prior art is cited on an Information Disclosure Statement (PTO-1449 or 892) the examiner may not have considered the references found in this petition or in the related PCT application.

The application is being forwarded to the Technical Support Staff for processing of applicant's preliminary amendment. Thereafter, prosecution of the application will proceed according to the procedure set forth in MPEP 708.02(VIII) and will be forwarded to the appropriate art unit for examination. Applicant is reminded that there is no provision for "withdrawal" from this special status.

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

#6

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

JUL 22 2002

Office of the Director
Group 3600

Paper No. 6

The Matthews Firm
Suite 1800
1900 West Loop South
Houston, TX 77027

In re application of
Jeffrey D, Musselwhite et al.
Application No. 09/982,618
Filed: October 17, 2001
For: MULTI-PURPOSE FLOAT EQUIPMENT AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 13, 2001 to make the above-identified application special. The delay in treating this petition is sincerely regretted.

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

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed December 13, 2001 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.

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

snm/snm : 7/15/02

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/12/07

Paper No.: ____

TO SPE OF : ART UNIT 3643

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/982635 Patent No.: 7007285B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

PETER M. POON
SUPERVISORY PATENT EXAMINER

SPE

3643
Art Unit

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	
Mark R. Maguire et al.	)	Group: 3643
Serial No.: 09/982,635	)	
Filed: October 18, 2001	)	Examiner: Rowan, Kurt C.
Title: TANGLE FREE FISHING POLE	)	Issued: March 7, 2006
U.S. Patent No.: 7,007,425	)	

CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.322

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

Sir:

Applicants hereby respectfully request the issuance of a Certificate of Correction for the above-identified patent to correct the errors listed on the accompanying PTO Form 1050. This request is being made pursuant to 35 U.S.C. § 254 since the listed errors are believed to comprise errors by the U.S. Patent Office.

Respectfully submitted,

/Todd T. Taylor/

Todd T. Taylor
Registration No. 36,945
Attorney for Applicant

TTT/bd

Electronically filed February 22, 2007

TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla, IN 46710
Telephone: 260-897-3400
Facsimile: 260-897-9300

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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,007,425

APPLICATION NO.: 09/982,635

ISSUE DATE : March 7, 2006

INVENTOR(S) : Maguire et al.

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

COLUMN 2

At line 22, please insert the following paragraph:

--Corresponding reference characters indicate corresponding parts throughout the several views. The exemplifications set out herein illustrate one preferred embodiment of the invention, in one form, and such exemplifications are not to be construed as limiting the scope of the invention in any manner.--

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

Taylor & Aust, P.C.
P.O. Box 560
Avilla, IN 46710

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.

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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,007,425

APPLICATION NO.: 09/982,635

ISSUE DATE : March 7, 2006

INVENTOR(S) : Maguire et al.

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

KR

COLUMN 3

At line 19, after "ferrule" and before "have", please delete "32"; and

At line 25, after "rings" and before "on", please delete "35".

COLUMN

At line 54, please delete Claim 5, and substitue therefore former Claim 8, as follows:

--5. The fishing pole of claim 1, further comprising a lead line for withdrawable insertion through said fishing line containment apparatus.--

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

Taylor & Aust, P.C.
P.O. Box 560
Avilla, IN 46710

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

CHARLES R. SZMANDA
4 CROSSMAN AVENUE
WESTBOROUGH MA 01581

FAX RECEIVED
MAY 25 2005
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey P. Szmanda	:	
Application No. 09/982,640	:	DECISION GRANTING PETITION
Filed: October 18, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 801001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2004, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 13, 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 2161.

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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 9-20-03 Paper No.: 15

TO : Supervisor, Art Unit 2800

SUBJECT : Certificate of Correction Request in Patent No.: 6592238

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

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.

Valerie Jacks

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correction, by placing a check mark (✓) in the box that reflects your decision, which corresponds to the question checked above.

☒ YES ☐ NO ☐ Comments below

☐ Comments:

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Supervisor

2875

Art Unit

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

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

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OCT 2 4 2002

OFFICE OF PETITIONS

In re Application of :
Gilbert & Stergiopoulos :
Application No.: 09/982,709 :
Filed: October 18, 2001 :
Attorney Docket No.: CF/041 :
For: SYSTEMS AND METHODS FOR QUOTING A TWO-SIDED MARKET

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 24, 2002 (express mail date June 21, 2002).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 18, 2001 without an executed oath or declaration. Accordingly, on November 21, 2001, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on June 24, 2002 (express mail date June 21, 2002), a petition for a five month extension of time and required fee, a declaration executed by 1 of 2 legal representatives of joint inventors, the surcharge, the petition fee, and the instant petition were filed. The petition states that a declaration and power of attorney was mailed to the widow of joint inventor Andrew Gilbert, but that she did not return it signed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the legal representative of the deceased inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the legal representative of the deceased inventor.

This petition lacks item (1) above.

As to item (1), Applicant has failed to establish that the legal representative of the deceased inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the legal

representative of the deceased inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d).

Mrs. Gilbert must have the complete application in her possession in order to make an informed decision as to whether she joins in its filing. She cannot make the necessary statements -- "I have reviewed and understand.." etc.-- without looking at the application papers.

Once delivery of the complete application to Mrs. Gilbert's last known address is established and no response has been received within a reasonable amount of time, applicant will have shown constructive refusal by Mrs. Gilbert to join in the filing of the application.

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

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 11

FISH & NEAVE
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FEB 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Gilbert & Stergiopoulos :
Application No.: 09/982,709 :
Filed: October 18, 2001 :
Attorney Docket No.:CF/041 :
For: SYSTEMS AND METHODS FOR QUOTING A TWO-SIDED MARKET

ON PETITION

Papers filed on December 18, 2002 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on October 24, 2002, included a Declaration signed by Mariann Gilbert, the previously nonsigning legal representative of deceased inventor Andrew C. Gilbert, in compliance with 37 CFR 1.63. Petitioners request joinder.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

Joinder is not possible at this time because the declaration submitted with the instant petition lists **Mary Ann** Gilbert as the legal representative's name. Mrs. Gilbert signed as **Mariann** Gilbert.

Petitioners must ascertain what Mrs. Gilbert's name is. If it is Mary Ann, then petitioners must inform the Office of the fact and the declaration will be processed with that name. If it is Mariann, then petitioners must file a petition under 37 CFR 1.182 requesting that the legal representative's name be changed to the signed version found on the declaration. See MPEP 605.04(b).

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

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

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

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 16

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50TH FLOOR
NEW YORK NY 10020-1105

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APR 2 2 2003

OFFICE OF PETITIONS

In re Application of
Gilbert & Stergiopoulos
Application No.: 09/982,709
Filed: October 18, 2001
Attorney Docket No.:CF/041
For: SYSTEMS AND METHODS FOR QUOTING A TWO-SIDED MARKET

ON PETITION

This decision will address three petitions: (1) a petition under 37 CFR 1.182 requesting that the previously nonsigning legal representative's name be altered to the signed version found in the declaration; (2) a petition under 37 CFR 1.47(a) requesting reconsideration of a dismissal rendered on February 25, 2003, and (3) a petition under 37 CFR 1.137(f) to revive the application.

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

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

The petition under 37 CFR 1.137(f) is **GRANTED**.

Petitioner has verified that the name of the previously nonsigning legal representative is Mariann Gilbert. Petitioner filed a petition under 37 CFR 1.182 requesting that the legal representative's name be changed to the signed version found on the declaration. MPEP 605.04(b). The petition is accompanied by the petition fee. Therefore, the petition under 37 CFR 1.182 is granted.

Papers filed on December 18, 2002 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on October 24, 2002, included a Declaration signed by Mariann Gilbert, the previously nonsigning legal representative of deceased inventor Andrew C. Gilbert, in compliance with 37 CFR 1.63.

In view of the joinder of the legal representative of the deceased inventor, the petition under 37 CFR 1.47(a) is dismissed as 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).

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on October 16, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition under 37 CFR 1.137(f) meets these requirements and is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for further processing. OIPE will mail a corrected filing receipt which includes a projected publication date for the instant application in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GILBERT, Andrew C. et al. :
Application No. 09/982,709 : DECISION ON PETITION
Filed: October 18, 2001 : TO WITHDRAW
Attorney Docket No. **01-1041** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **APPROVED**.

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

The request was signed by Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ANDREW C. GILBERT**
5 SCARLET OAK ROAD
CALIFON, NJ 07830

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

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

TIMOTHY A. FRENCH
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

COPY MAILED

MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Rock, et al.
Application No. 09/982,720
Filed: October 18, 2001
Attorney Docket No.: 10638-025001
For: DOUBLE-FACE VELOUR FABRIC ARTICLES HAVING IMPROVED DYNAMIC INSULATION PERFORMANCE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed February 19, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 18, 2001 without an executed oath or declaration and naming Moshe Rock, Edward P. Dionne, Bhupesh Dua, Charles Haryslak, William K. Lie, and Douglas Lumb a joint inventors. Accordingly, on November 21, 2001, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing. The instant petition was filed in response.

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

The petition lacks items (1) and (2) above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Felicia Siggens indicates that an envelope

containing, among other items, a copy of the a combined declaration and power of attorney was mailed to the inventor at the inventor's last known address and that the envelope was returned to sender as undeliverable.

Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, claims, and drawings). Details regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein.

Petitioner should note that while the petition alleges the non-inventor is unavailable to sign the declaration at the non-signing inventor's last known address, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates the more current address and telephone number of the non-signing inventor to be as follows: 3216 NW Spencer Street, Portland, Oregon 97229-8053 and 503-296-6461.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it has been improperly executed. Where it is alleged in a petition under 37 CFR 1.47(a) that an inventor cannot be located or refuses to sign the oath or declaration, the remaining inventors should sign the declaration in their own name and on behalf of the non-signing inventor. The signature block of the non-signing inventor should remain unexecuted. The assignee may not sign on behalf of the non-signing inventor where a petition under 37 CFR 1.47(a) is filed. *See*, MPEP 409.03(a). Petitioner is advised that any renewed petition should include a properly executed oath or declaration.

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

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

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

TIMOTHY A. FRENCH
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

COPY MAILED

JUL 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Rock, et al.	:	
Application No. 09/982,720	:	DECISION NOTING JOINDER
Filed: October 18, 2001	:	OF INVENTOR AND PETITION
Attorney Docket No.: 10638-025001	:	UNDER 37 CFR 1.47(a) MOOT
For: DOUBLE-FACE VELOUR FABRIC ARTICLES HAVING IMPROVED DYNAMIC INSULATION PERFORMANCE	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 19, 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
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 05-02

Paper No. 8

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

MAY 20 2002

OFFICE OF PETITIONS

In re Application of :
Hayashi et al. :
Application No. 09/982,831 : DECISION GRANTING PETITION
Filed: 22 October, 2001 :
Atty Docket No. 215144US2 :

This is a decision on the petition filed on 25 March, 2002, requesting that the above-identified application be accorded a filing date of 22 October, 2001, with 48 pages of specification as a part of the original disclosure.

On 22 October, 2001, the application was filed.

On 23 January, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the specification was missing and that the filing date of the application would be the date of receipt thereof.

In response, on 25 March, 2002, the present petition was filed, accompanied by 48 pages of specification, the claims and one (1) page of abstract, seven (7) sheets of drawings, and a declaration. Petitioner argues that the 48 pages of specification drawings were filed with the other application papers on 9 October, 2001, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's itemized hand-stamped receipt, which identifies the application by the first-named inventor's name, application title, and attorney docket number, was supplied with the petition. The receipt, which shows an Office-date stamp of 22 October, 2001, acknowledges receipt of, *inter alia*, 48 pp. specification, 33 claims, formal drawings 7 sheets and three (3) pages of a declaration. Petitioner requests that the application, including 48 pages of specification, including claims and seven (7) sheets of drawings, be accorded a filing date of 22 October, 2001.

Upon review of the record, no specification or drawings deposited on 22 October, 2001, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 22 October, 2001, included 48 pages of specification, including 33 claims, and seven (7) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including 48 pages of specification, including 33 claims, and seven (7) sheets of drawings, was complete on filing and entitled to a filing date of 22 October, 2001.

In view of the above, the petition is granted. The 48 pages of specification and claims and seven (7) sheets of drawings submitted with the petition will be used for processing and examination purposes. No petition fee is necessary and none has been charged.

In regards to the additional claim fee(s) required in the Notice mailed on 23 January, 2002, it appears that the additional claim fee(s) were inadvertently calculated based on the copies of claims from the pending related cases submitted with the Information Disclosure Statement filed on 2 January, 2002.

The "Notice" mailed on 23 January, 2002, is vacated to the extent that it stated that the application was incomplete and that the specification was missing.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 22 October, 2001, using the application papers filed on that date, and the 48 pages of specification, including 33 claims and seven (7) sheets of drawings supplied on 25 March, 2002, and for an indication on the bib-data sheet that 33 claims were present on filing.

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

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

OIPE JC177 FEB 20 2002 PATENT & TRADEMARK OFFICE

#4 Section 1.53(b)

PATENT
Attorney Docket **44921-5047-02**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Mark B. Rabin**

Application No. **09/982,835** Art Unit: **1655**

Filed: **October 22, 2001** Examiner: **Not Assigned**

For: **Mutations in the BRCA1 Gene**

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

1. This paper is filed in response to the Notice of Missing Parts of Nonprovisional Application Filed Under 37 C.F.R. 1.53(b) dated November 20, 2001. A copy of the Notice of Missing Parts is enclosed.

2. Extension of Time: The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136(a) apply. Applicant petitions for a one-month extension of time from January 20, 2002 to February 20, 2002, the extension fee for which is $55.00 as set out in 37 C.F.R. 1.17(a)-(d) for small entities. If an additional extension of time is required, please consider this a petition therefor.

3. Amendments: A review of the Notice of Missing Parts indicates that the preliminary amendment filed on October 22, 2001 was not taken into consideration when calculating the outstanding application filing fees due by Applicant. Therefore, prior to calculation of the application filing fees, please cancel claims 1-66, without prejudice or disclaimer of Applicant's right to file divisional applications containing the subject matter of these claims, and add new claims 67-84 as shown on the attached copy of the Preliminary Amendment.

4. Fee Calculation (37 C.F.R. 1.16):

CLAIMS FOR FEE CALCULATION						
	Remaining		**Previously Paid**	**Extra**	**Rate**	**Basic Fee: $740.00**
Total Claims	**18**	minus	**0**	**0**	$18 each	**+ 0.00**
Independent Claims	**5**	minus	**0**	**2**	$84 each	**+ 168.00**
First presentation of Multiple dependent claim					$280.00	**+ 0.00**
					Sub-total =	**= 908.00**
					Reduction by ½ for filing by a small entity	**- 454.00**
					Total Fee =	**$454.00**

02/27/2002 SMINASS1 00000008 500310 09982835

04 FC:215 55.00 CH

5. Fee Payment: The Commission is hereby authorized to charge **$658.00** to Deposit Account 50-0310 for payment of the application filing fee ($370.00), additional independent claims fee ($168.00), missing parts surcharge fee ($65.00) and the one-month extension of time fee ($55.00).

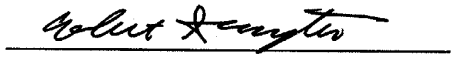
6. Additional Papers Filed:
(i) Request to Transfer Electronic Copy of Sequence Listing
(ii) Statement Accompanying Sequence Listing
(iii) Sequence Listing (9 pages)

7. **Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, or credit any overpayment to Deposit Account 50-0310.

Dated: **February 20, 2002**

Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted
Morgan, Lewis & Bockius LLP



Robert Smyth
Registration No. P50,801

#5

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NOV 26 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

MORGAN, LEWIS & BOCKUS LLP

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
09/982,835	10/22/2001	Mark B. Rabin	44921-5047-02

009629
MORGAN, LEWIS & BOCKIUS
1800 M STREET NW
WASHINGTON, DC 20036-5869

OIPE JC177
FEB 20 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 8480
FORMALITIES LETTER
OC000000007095685

Date Mailed: 11/20/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/27/2002 SMINAS51 00000008 500310 09982835

01 FC:201 370.00 CH
02 FC:205 65.00 CH
~~03 FC:202 168.00 CH~~

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **370** *to complete the basic filing fee for a small entity.*
- Total additional claim fee(s) for this application is $126.
  - $**126** for **3** independent claims over 3 .
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 561.**

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

~~Adjustment date: 03/14/2002 MHARMOL~~
~~02/27/2002 SMINAS51 00000008 500310 09982835~~
~~03 FC:202 168.00 CR~~

03/14/2002 MHARMOL 00000007 500310 09982835
01 FC:202 84.00 CH

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

1655 SG9

PATENT
Attorney Docket **044921-5047-02**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Mark B. Rabin**

Application No. **09/982,835**

Filed: **October 22, 2001**

For: **Mutations in the BRCA1 Gene**

Art Unit: **1655**

Examiner: **Not Assigned**

RECEIVED
JUN 19 2002
TECH CENTER 1600/2900

Box Sequence
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING SEQUENCE DISCLOSURES

1. This paper is filed in response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures dated March 15, 2002.

2. Extension of Time: The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136(a) apply. Applicant petitions for a one-month extension of time from May 15, 2002 to June 15, 2002, the extension fee for which is $55.00 as set out in 37 C.F.R. 1.17(a)-(d) for small entities. This response is being filed under the next business day rule on Monday, June 17, 2002 as the due date for responding fell on a weekend (Saturday, June 15, 2002). If an additional extension of time is required, please consider this a petition therefor.

3. Additional Papers Filed:
   (i) Copy of Notice dated March 15, 2002
   (ii) Statement Accompanying Sequence Listing
   (iii) Sequence Listing – 9 pages
   (iv) Computer Diskette with electronic copy of Sequence Listing

4. Fee Payment: The Commission is hereby authorized to charge **$55.00** to Deposit Account 50-0310 for payment of the one-month extension of time fee.

5. **Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, or credit any overpayment to Deposit Account 50-0310.

Dated: **June 17, 2002**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted
Morgan, Lewis & Bockius LLP

Michael S. Tuscan
Michael S. Tuscan
Reg. No. 43,210

Robert Smyth
Registration No. 50,801

07/29/2002 MMARMOL 00000004 500310 09982835
01 FC:215 55.00 CH

OIPE JUN 17 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/982,835	10/22/2001	Mark B. Rabin	44921-5047-02

CONFIRMATION NO. 8480

009629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

FORMALITIES LETTER

OC000000007645820

Date Mailed: 03/15/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A request to transfer the computer readable form from another application on file at the U.S. Patent and Trademark Office has been submitted as permitted by 37 C.F.R. 1.821(e). However, the request cannot be complied with since there is no compliant CRF present at the United States Patent and Trademark Office. Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

RECEIVED
JUN 19 2002
TECH CENTER 1600/2900

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
SEP 30 2002
PATENT & TRADEMARK OFFICE
TC 1600

PATENT
Attorney Docket **044921-5047-02**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Mark B. Rabin**

Application No. **09/982,835** — Art Unit: **1655**

Filed: **October 22, 2001** — Examiner: **Not Assigned**

For: **Mutations in the BRCA1 Gene**

Box Sequence
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING SEQUENCE DISCLOSURES

1. This paper is filed in response to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures dated July 30, 2002.

2. Additional Papers Filed:
   (i) Copy of Notice dated July 30, 2002
   (ii) Statement Accompanying Sequence Listing
   (iii) Sequence Listing – 9 pages
   (iv) Computer Diskette with electronic copy of Sequence Listing

3. **Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted
Morgan, Lewis & Bockius LLP

Robert Smyth
Registration No. 50,801

Dated: **September 30, 2002**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania, N.W.
Washington, D.C. 20004
202-739-3000

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
09/982,835	10/22/2001	Mark B. Rabin	044921-5047-02

OIPE
SEP 30 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 8480

009629
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

FORMALITIES LETTER

OC000000008539533

Date Mailed: 07/30/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

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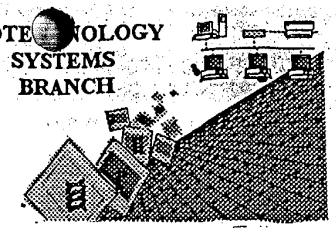
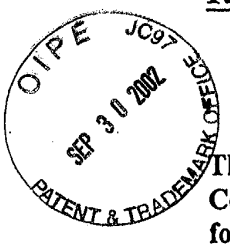
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

BIOTECHNOLOGY SYSTEMS BRANCH



0590
625



RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 09/982,835
Source: OIPE
Date Processed by STIC: 6-25-02

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.
PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

1) **INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,**
2) **TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY**

FOR CRF SUBMISSION QUESTIONS, PLEASE CONTACT MARK SPENCER, 703-308-4212.

FOR SEQUENCE RULES INTERPRETATION, PLEASE CONTACT ROBERT WAX, 703-308-4216.
PATENTIN 2.1 e-mail help: patin21help@uspto.gov or phone 703-306-4119 (R. Wax)
PATENTIN 3.0 e-mail help: patin3help@uspto.gov or phone 703-306-4119 (R. Wax)

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE **CHECKER VERSION 3.1 PROGRAM**, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:
http://www.uspto.gov/web/offices/pac/checker

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.
Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.
Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm>, **EFS Submission User Manual** - ePAVE)
2. **U.S. Postal Service:** U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA 22202
3. **Hand Carry directly to:**
   U.S. Patent and Trademark Office, Technology Center 1600, Reception Area, 7th Floor, Examiner Name, Sequence Information, Crystal Mall One, 1911 South Clark Street, Arlington, VA 22202
   Or
   U.S. Patent and Trademark Office, Box Sequence, Customer Window, Lobby, Room 1B03, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202
4. **Federal Express, United Parcel Service, or other delivery service to:** U.S. Patent and Trademark Office, Box Sequence, Room 1B03-Mailroom, Crystal Plaza Two, 2011 South Clark Place, Arlington, VA 22202

Revised 01/29/2002

Does Not Comply
Corrected Diskette Needed

OIPE

RAW SEQUENCE LISTING
PATENT APPLICATION: US/09/982,835

DATE: 06/25/2002
TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

SEQUENCE LISTING

(1) GENERAL INFORMATION:
(i) APPLICANT: RABIN, Mark B.
(ii) TITLE OF INVENTION: MUTATIONS IN THE BRCA1 GENE
(iii) NUMBER OF SEQUENCES: 10
(iv) CORRESPONDENCE ADDRESS:
(A) ADDRESSEE: Morgan, Lewis & Bockius LLP
(B) STREET: 1111 Pennsylvania Avenue, N.W.
(C) CITY: Washington
(D) STATE: DC
(E) COUNTRY: USA
(F) ZIP: 20004
(v) COMPUTER READABLE FORM:
(A) MEDIUM TYPE: Diskette
(B) COMPUTER: IBM Compatible
(C) OPERATING SYSTEM: Windows
(D) SOFTWARE: FastSEQ for Windows Version 2.0b
(vi) CURRENT APPLICATION DATA:
C--> (A) APPLICATION NUMBER: US/09/982,835
C--> (B) FILING DATE: 17-Jun-2002
(vii) PRIOR APPLICATION DATA:
(A) APPLICATION NUMBER: US 09/038,946
(B) FILING DATE: 1998-03-12
(A) APPLICATION NUMBER: US 09/697,149
(B) FILING DATE: 2000-10-27
(viii) ATTORNEY/AGENT INFORMATION:
(A) NAME: Michael S. Tuscan, Ph.D.
(B) REGISTRATION NUMBER: 43,210
(C) REFERENCE/DOCKET NUMBER: 44921-5047-02-US
(ix) TELECOMMUNICATION INFORMATION:
(A) TELEPHONE: 202-739-3000
(B) TELEFAX: 202-739-3001

ERRORED SEQUENCES

(2) INFORMATION FOR SEQ ID NO: 1:
(i) SEQUENCE CHARACTERISTICS:
(A) LENGTH: 5710 base pairs
(B) TYPE: nucleic acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear
(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 1:

Sequence is 5711 in length.

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

59 AGCTCGCTGA GACTTCCTGG ACCCCGCACC AGGCTGTGGG GTTTCTCAGA TAACTGGGCC 60
60 CCTGCGCTCA GGAGGCCTTC ACCCTCTGCT CTGGGTAAAG TTCATTGGAA CAGAAAGAAA 120
61 TGGATTTATC TGCTCTTCGC GTTGAAGAAG TACAAAATGT CATTAATGCT ATGCAGAAAA 180
62 TCTTAGAGTG TCCCATCTGT CTGGAGTTGA TCAAGGAACC TGTCTCCACA AAGTGTGACC 240
63 ACATATTTTG CAAATTTTGC ATGCTGAAAC TTCTCAACCA GAAGAAAGGG CCTTCACAGT 300
64 GTCCTTTATG TAAGAATGAT ATAACCAAAA GGAGCCTACA AGAAAGTACG AGATTTAGTC 360
65 AACTTGTTGA AGAGCTATTG AAAATCATTT GTGCTTTTCA GCTTGACACA GGTTTGGAGT 420
66 ATGCAAACAG CTATAATTTT GCAAAAAAGG AAAATAACTC TCCTGAACAT CTAAAAGATG 480
67 AAGTTTCTAT CATCCAAAGT ATGGGCTACA GAAACCGTGC CAAAAGACTT CTACAGAGTG 540
68 AACCCGAAAA TCCTTCCTTG CAGGAAACCA GTCTCAGTGT CCAACTCTCT AACCTTGGAA 600
69 CTGTGAGAAC TCTGAGGACA AAGCAGCGGA TACAACCTCA AAAGACGTCT GTCTACATTG 660
70 AATTGGGATC TGATTCTTCT GAAGATACCG TTAATAAGGC AACTTATTGC AGTGTGGGAG 720
71 ATCAAGAATT GTTACAAATC ACCCCTCAAG GAACCAGGGA TGAAATCAGT TTGGATTCTG 780
72 CAAAAAAGGC TGCTTGTGAA TTTTCTGAGA CGGATGTAAC AAATACTGAA CATCATCAAC 840
73 CCAGTAATAA TGATTTGAAC ACCACTGAGA AGCGTGCAGC TGAGAGGCAT CCAGAAAAGT 900
74 ATCAGGGTAG TTCTGTTTCA AACTTGCATG TGGAGCCATG TGGCACAAAT ACTCATGCCA 960
75 GCTCATTACA GCATGAGAAC AGCAGTTTAT TACTCACTAA AGACAGAATG AATGTAGAAA 1020
76 AGGCTGAATT CTGTAATAAA AGCAAACAGC CTGGCTTAGC AAGGAGCCAA CATAACAGAT 1080
77 GGGCTGGAAG TAAGGAAACA TGTAATGATA GGCGGACTCC CAGCACAGAA AAAAAGGTAG 1140
78 ATCTGAATGC TGATCCCCTG TGTGAGAGAA AAGAATGGAA TAAGCAGAAA CTGCCATGCT 1200
79 CAGAGAATCC TAGAGATACT GAAGATGTTC CTTGGATAAC ACTAAATAGC AGCATTCAGA 1260
80 AAGTTAATGA GTGGTTTTCC AGAAGTGATG AACTGTTAGG TTCTGATGAC TCACATGATG 1320
81 GGGAGTCTGA ATCAAATGCC AAAGTAGCTG ATGTATTGGA CGTTCTAAAT GAGGTAGATG 1380
82 AATATTCTGG TTCTTCAGAG AAAATAGACT TACTGGCCAG TGATCCTCAT GAGGCTTTAA 1440
83 TATGTAAAAG TGAAAGAGTT CACTCCAAAT CAGTAGAGAG TAATATTGAA GACAAAATAT 1500
84 TTGGGAAAAC CTATCGGAAG AAGGCAAGCC TCCCCAACTT AAGCCATGTA ACTGAAAATC 1560
85 TAATTATAGG AGCATTTGTT ACTGAGCCAC AGATAATACA AGAGCGTCCC CTCACAAATA 1620
86 AATTAAAGCG TAAAAGGAGA CCTACATCAG GCCTTCATCC TGAGGATTTT ATCAAGAAAG 1680
87 CAGATTTGGC AGTTCAAAAG ACTCCTGAAA TGATAAATCA GGGAACTAAC CAAACGGAGC 1740
88 AGAATGGTCA AGTGATGAAT ATTACTAATA GTGGTCATGA GAATAAAACA AAAGGTGATT 1800
89 CTATTCAGAA TGAGAAAAAT CCTAACCCAA TAGAATCACT CGAAAAAGAA TCTGCTTTCA 1860
90 AAACGAAAGC TGAACCTATA AGCAGCAGTA TAAGCAATAT GGAACTCGAA TTAAATATCC 1920
91 ACAATTCAAA AGCACCTAAA AAGAATAGGC TGAGGAGGAA GTCTTCTACC AGGCATATTC 1980
92 ATGCGCTTGA ACTAGTAGTC AGTAGAAATC TAAGCCCACC TAATTGTACT GAATTGCAAA 2040
93 TTGATAGTTG TTCTAGCAGT GAAGAGATAA AGAAAAAAAA GTACAACCAA ATGCCAGTCA 2100
94 GGCACAGCAG AAACCTACAA CTCATGGAAG GTAAAGAACC TGCAACTGGA GCCAAGAAGA 2160
95 GTAACAAGCC AAATGAACAG ACAAGTAAAA GACATGACAG TGATACTTTC CCAGAGCTGA 2220
96 AGTTAACAAA TGCACCTGGT TCTTTTACTA AGTGTTCAAA TACCAGTGAA CTTAAAGAAT 2280
97 TTGTCAATCC TAGCCTTCCA AGAGAAGAAA AAGAAGAGAA ACTAGAAACA GTTAAAGTGT 2340
98 CTAATAATGC TGAAGACCCC AAAGATCTCA TGTTAAGTGG AGAAAGGGTT TTGCAAACTG 2400
99 AAAGATCTGT AGAGAGTAGC AGTATTTCAC TGGTACCTGG TACTGATTAT GGCACTCAGG 2460
100 AAAGTATCTC GTTACTGGAA GTTAGCACTC TAGGGAAGGC AAAAACAGAA CCAAATAAAT 2520
101 GTGTGAGTCA GTGTGCAGCA TTTGAAAACC CCAAGGGACT AATTCATGGT TGTTCCAAAG 2580
102 ATAATAGAAA TGACACAGAA GGCTTTAAGT ATCCATTGGG ACATGAAGTT AACCACAGTC 2640
103 GGGAAACAAG CATAGAAATG GAAGAAAGTG AACTTGATGC TCAGTATTTG CAGAATACAT 2700
104 TCAAGGTTTC AAAGCGCCAG TCATTTGCTC TGTTTTCAAA TCCAGGAAAT GCAGAAGAGG 2760
105 AATGTGCAAC ATTCTCTGCC CACTCTGGGT CCTTAAAGAA ACAAAGTCCA AAAGTCACTT 2820
106 TTGAATGTGA ACAAAAGGAA GAAAATCAAG GAAAGAATGA GTCTAATATC AAGCCTGTAC 2880
107 AGACAGTTAA TATCACTGCA GGCTTTCCTG TGGTTGGTCA GAAAGATAAG CCAGTTGATA 2940

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

```
108  ATGCCAAATG TAGTATCAAA GGAGGCTCTA GGTTTTGTCT ATCATCTCAG TTCAGAGGCA   3000
109  ACGAAACTGG ACTCATTACT CCAAATAAAC ATGGACTTTT ACAAAACCCA TATCGTATAC   3060
110  CACCACTTTT TCCCATCAAG TCATTTGTTA AAACTAAATG TAAGAAAAAT CTGCTAGAGG   3120
111  AAAACTTTGA GGAACATTCA ATGTCACCTG AAAGAGAAAT GGGAAATGAG AACATTCCAA   3180
112  GTACAGTGAG CACAATTAGC CGTAATAACA TTAGAGAAAA TGTTTTTAAA GGAGCCAGCT   3240
113  CAAGCAATAT TAATGAAGTA GGTTCCAGTA CTAATGAAGT GGGCTCCAGT ATTAATGAAA   3300
114  TAGGTTCCAG TGATGAAAAC ATTCAAGCAG AACTAGGTAG AAACAGAGGG CCAAAATTGA   3360
115  ATGCTATGCT TAGATTAGGG GTTTTGCAAC CTGAGGTCTA TAAACAAAGT CTTCCTGGAA   3420
116  GTAATTGTAA GCATCCTGAA ATAAAAAAGC AAGAATATGA AGAAGTAGTT CAGACTGTTA   3480
117  ATACAGATTT CTCTCCATAT CTGATTTCAG ATAACTTAGA ACAGCCTATG GGAAGTAGTC   3540
118  ATGCATCTCA GGTTTGTTCT GAGACACCTG ATGACCTGTT AGATGATGGT GAAATAAAGG   3600
119  AAGATACTAG TTTTGCTGAA AATGACATTA AGGAAAGTTC TGCTGTTTTT AGCAAAAGCG   3660
120  TCCAGAGAGG AGAGCTTAGC AGGAGTCCTA GCCCTTTCAC CCATACACAT TTGGCTCAGG   3720
121  GTTACCGAAG AGGGGCCAAG AAATTAGAGT CCTCAGAAGA GAACTTATCT AGTGAGGATG   3780
122  AAGAGCTTCC CTGCTTCCAA CACTTGTTAT TTGGTAAAGT AAACAATATA CCTTCTCAGT   3840
123  CTACTAGGCA TAGCACCGTT GCTACCGAGT GTCTGTCTAA GAACACAGAG GAGAATTTAT   3900
124  TATCATTGAA GAATAGCTTA AATGACTGCA GTAACCAGGT AATATTGGCA AAGGCATCTC   3960
125  AGGAACATCA CCTTAGTGAG GAAACAAAAT GTTCTGCTAG CTTGTTTTCT TCACAGTGCA   4020
126  GTGAATTGGA AGACTTGACT GCAAATACAA ACACCCAGGA TCCTTTCTTG ATTGGTTCTT   4080
127  CCAAACAAAT GAGGCATCAG TCTGAAAGCC AGGGAGTTGG TCTGAGTGAC AAGGAATTGG   4140
128  TTTCAGATGA TGAAGAAAGA GGAACGGGCT TGGAAGAAAA TAATCAAGAA GAGCAAAGCA   4200
129  TGGATTCAAA CTTAGGTGAA GCAGCATCTG GGTGTGAGAG TGAAACAAGC GTCTCTGAAG   4260
130  ACTGCTCAGG GCTATCCTCT CAGAGTGACA TTTTAACCAC TCAGCAGAGG GATACCATGC   4320
131  AACATAACCT GATAAAGCTC CAGCAGGAAA TGGCTGAACT AGAAGCTGTG TTAGAACAGC   4380
132  ATGGGAGCCA GCCTTCTAAC AGCTACCCTT CCATCATAAG TGACTCCTCT GCCCTTGAGG   4440
133  ACCTGCGAAA TCCAGAACAA AGCACATCAG AAAAAGCAGT ATTAACTTCA CAGAAAAGTA   4500
134  GTGAATACCC TATAAGCCAG AATCCAGAAG GCCTTTCTGC TGACAAGTTT GAGGTGTCTG   4560
135  CAGATAGTTC TACCAGTAAA AATAAAGAAC CAGGAGTGGA AAGGTCATCC CCTTCTAAAT   4620
136  GCCCATCATT AGATGATAGG TGGTACATGC ACAGTTGCTC TGGGAGTCTT CAGAATAGAA   4680
137  ACTACCCATC TCAAGAGGAG CTCATTAAGG TTGTTGATGT GGAGGAGCAA CAGCTGGAAG   4740
138  AGTCTGGGCC ACACGATTTG ACGGAAACAT CTTACTTGCC AAGGCAAGAT CTAGAGGGAA   4800
139  CCCCTTACCT GGAATCTGGA ATCAGCCTCT TCTCTGATGA CCCTGAATCT GATCCTTCTG   4860
140  AAGACAGAGC CCCAGAGTCA GCTCGTGTTG GCAACATACC ATCTTCAACC TCTGCATTGA   4920
141  AAGTTCCCCA ATTGAAAGTT GCAGAATCTG CCCAGGGTCC AGCTGCTGCT CATACTACTG   4980
142  ATACTGCTGG GTATAATGCA ATGGAAGAAA GTGTGAGCAG GGAGAAGCCA GAATTGACAG   5040
143  CTTCAACAGA AAGGGTCAAC AAAAGAATGT CCATGGTGGT GTCTGGCCTG ACCCCAGAAG   5100
144  AATTTATGCT CGTGTACAAG TTTGCCAGAA AACACCACAT CACTTTAACT AATCTAATTA   5160
145  CTGAAGAGAC TACTCATGTT GTTATGAAAA CAGATGCTGA GTTTGTGTGT GAACGGACAC   5220
146  TGAAATATTT TCTAGGAATT GCGGGAGGAA AATGGGTAGT TAGCTATTTC TGGGTGACCC   5280
147  AGTCTATTAA AGAAAGAAAA ATGCTGAATG AGCATGATTT TGAAGTCAGA GGAGATGTGG   5340
148  TCAATGGAAG AAACCACCAA GGTCCAAAGC GAGCAAGAGA ATCCCAGGAC AGAAAGATCT   5400
149  TCAGGGGGCT AGAAATCTGT TGCTATGGGC CCTTCACCAA CATGCCCACA GATCAACTGG   5460
150  AATGGATGGT ACAGCTGTGT GGTGCTTCTG TGGTGAAGGA GCTTTCATCA TTCACCCTTG   5520
151  GCACAGGTGT CCACCCAATT GTGGTTGTGC AGCCAGATGC CTGGACAGAG GACAATGGCT   5580
152  TCCATGCAAT TGGGCAGATG TGTGAGGCAC CTGTGGTGAC CCGAGAGTGG GTGTTGGACA   5640
153  GTGTAGCACT CTACCAGTGC CAGGAGCTGG ACACCTACCT GATACCCCAG ATCCCCCACA   5700
E--> 154  GCCACTACTG(A)                                                  5710
156  (2) INFORMATION FOR SEQ ID NO: 2:
158       (i) SEQUENCE CHARACTERISTICS:
```

Sequence is 5710

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

(A) LENGTH: 1863 amino acids
(B) TYPE: amino acid
(C) STRANDEDNESS: single
(D) TOPOLOGY: linear
(ii) MOLECULE TYPE: protein
(xi) SEQUENCE DESCRIPTION: SEQ ID NO: 2:

```
Met Asp Leu Ser Ala Leu Arg Val Glu Glu Val Gln Asn Val Ile Asn
 1               5                  10                  15
Ala Met Gln Lys Ile Leu Glu Cys Pro Ile Cys Leu Glu Leu Ile Lys
            20                  25                  30
Glu Pro Val Ser Thr Lys Cys Asp His Ile Phe Cys Lys Phe Cys Met
        35                  40                  45
Leu Lys Leu Leu Asn Gln Lys Lys Gly Pro Ser Gln Cys Pro Leu Cys
    50                  55                  60
Lys Asn Asp Ile Thr Lys Arg Ser Leu Gln Glu Ser Thr Arg Phe Ser
65                  70                  75                  80
Gln Leu Val Glu Glu Leu Leu Lys Ile Ile Cys Ala Phe Gln Leu Asp
                85                  90                  95
Thr Gly Leu Glu Tyr Ala Asn Ser Tyr Asn Phe Ala Lys Lys Glu Asn
            100                 105                 110
Asn Ser Pro Glu His Leu Lys Asp Glu Val Ser Ile Ile Gln Ser Met
        115                 120                 125
Gly Tyr Arg Asn Arg Ala Lys Arg Leu Leu Gln Ser Glu Pro Glu Asn
    130                 135                 140
Pro Ser Leu Gln Glu Thr Ser Leu Ser Val Gln Leu Ser Asn Leu Gly
145                 150                 155                 160
Thr Val Arg Thr Leu Arg Thr Lys Gln Arg Ile Gln Pro Gln Lys Thr
                165                 170                 175
Ser Val Tyr Ile Glu Leu Gly Ser Asp Ser Ser Glu Asp Thr Val Asn
            180                 185                 190
Lys Ala Thr Tyr Cys Ser Val Gly Asp Gln Glu Leu Leu Gln Ile Thr
        195                 200                 205
Pro Gln Gly Thr Arg Asp Glu Ile Ser Leu Asp Ser Ala Lys Lys Ala
    210                 215                 220
Ala Cys Glu Phe Ser Glu Thr Asp Val Thr Asn Thr Glu His His Gln
225                 230                 235                 240
Pro Ser Asn Asn Asp Leu Asn Thr Thr Glu Lys Arg Ala Ala Glu Arg
                245                 250                 255
His Pro Glu Lys Tyr Gln Gly Ser Ser Val Ser Asn Leu His Val Glu
            260                 265                 270
Pro Cys Gly Thr Asn Thr His Ala Ser Ser Leu Gln His Glu Asn Ser
        275                 280                 285
Ser Leu Leu Leu Thr Lys Asp Arg Met Asn Val Glu Lys Ala Glu Phe
    290                 295                 300
Cys Asn Lys Ser Lys Gln Pro Gly Leu Ala Arg Ser Gln His Asn Arg
305                 310                 315                 320
Trp Ala Gly Ser Lys Glu Thr Cys Asn Asp Arg Arg Thr Pro Ser Thr
                325                 330                 335
Glu Lys Lys Val Asp Leu Asn Ala Asp Pro Leu Cys Glu Arg Lys Glu
```

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

```
211                 340                 345                 350
212  Trp Asn Lys Gln Lys Leu Pro Cys Ser Glu Asn Pro Arg Asp Thr Glu
213          355                 360                 365
214  Asp Val Pro Trp Ile Thr Leu Asn Ser Ser Ile Gln Lys Val Asn Glu
215      370                 375                 380
216  Trp Phe Ser Arg Ser Asp Glu Leu Leu Gly Ser Asp Asp Ser His Asp
217  385                 390                 395                 400
218  Gly Glu Ser Glu Ser Asn Ala Lys Val Ala Asp Val Leu Asp Val Leu
219                  405                 410                 415
220  Asn Glu Val Asp Glu Tyr Ser Gly Ser Ser Glu Lys Ile Asp Leu Leu
221              420                 425                 430
222  Ala Ser Asp Pro His Glu Ala Leu Ile Cys Lys Ser Glu Arg Val His
223          435                 440                 445
224  Ser Lys Ser Val Glu Ser Asn Ile Glu Asp Lys Ile Phe Gly Lys Thr
225      450                 455                 460
226  Tyr Arg Lys Lys Ala Ser Leu Pro Asn Leu Ser His Val Thr Glu Asn
227  465                 470                 475                 480
228  Leu Ile Ile Gly Ala Phe Val Thr Glu Pro Gln Ile Ile Gln Glu Arg
229                  485                 490                 495
230  Pro Leu Thr Asn Lys Leu Lys Arg Lys Arg Arg Pro Thr Ser Gly Leu
231              500                 505                 510
232  His Pro Glu Asp Phe Ile Lys Lys Ala Asp Leu Ala Val Gln Lys Thr
233          515                 520                 525
234  Pro Glu Met Ile Asn Gln Gly Thr Asn Gln Thr Glu Gln Asn Gly Gln
235      530                 535                 540
236  Val Met Asn Ile Thr Asn Ser Gly His Glu Asn Lys Thr Lys Gly Asp
237  545                 550                 555                 560
238  Ser Ile Gln Asn Glu Lys Asn Pro Asn Pro Ile Glu Ser Leu Glu Lys
239                  565                 570                 575
240  Glu Ser Ala Phe Lys Thr Lys Ala Glu Pro Ile Ser Ser Ser Ile Ser
241              580                 585                 590
242  Asn Met Glu Leu Glu Leu Asn Ile His Asn Ser Lys Ala Pro Lys Lys
243          595                 600                 605
244  Asn Arg Leu Arg Arg Lys Ser Ser Thr Arg His Ile His Ala Leu Glu
245      610                 615                 620
246  Leu Val Val Ser Arg Asn Leu Ser Pro Pro Asn Cys Thr Glu Leu Gln
247  625                 630                 635                 640
248  Ile Asp Ser Cys Ser Ser Ser Glu Glu Ile Lys Lys Lys Lys Tyr Asn
249                  645                 650                 655
250  Gln Met Pro Val Arg His Ser Arg Asn Leu Gln Leu Met Glu Gly Lys
251              660                 665                 670
252  Glu Pro Ala Thr Gly Ala Lys Lys Ser Asn Lys Pro Asn Glu Gln Thr
253          675                 680                 685
254  Ser Lys Arg His Asp Ser Asp Thr Phe Pro Glu Leu Lys Leu Thr Asn
255      690                 695                 700
256  Ala Pro Gly Ser Phe Thr Lys Cys Ser Asn Thr Ser Glu Leu Lys Glu
257  705                 710                 715                 720
258  Phe Val Asn Pro Ser Leu Pro Arg Glu Glu Lys Glu Glu Lys Leu Glu
259                  725                 730                 735
```

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

```
260  Thr Val Lys Val Ser Asn Asn Ala Glu Asp Pro Lys Asp Leu Met Leu
261              740                 745                 750
262  Ser Gly Glu Arg Val Leu Gln Thr Glu Arg Ser Val Glu Ser Ser Ser
263          755                 760                 765
264  Ile Ser Leu Val Pro Gly Thr Asp Tyr Gly Thr Gln Glu Ser Ile Ser
265      770                 775                 780
266  Leu Leu Glu Val Ser Thr Leu Gly Lys Ala Lys Thr Glu Pro Asn Lys
267  785                 790                 795                 800
268  Cys Val Ser Gln Cys Ala Ala Phe Glu Asn Pro Lys Gly Leu Ile His
269                  805                 810                 815
270  Gly Cys Ser Lys Asp Asn Arg Asn Asp Thr Glu Gly Phe Lys Tyr Pro
271              820                 825                 830
272  Leu Gly His Glu Val Asn His Ser Arg Glu Thr Ser Ile Glu Met Glu
273          835                 840                 845
274  Glu Ser Glu Leu Asp Ala Gln Tyr Leu Gln Asn Thr Phe Lys Val Ser
275      850                 855                 860
276  Lys Arg Gln Ser Phe Ala Leu Phe Ser Asn Pro Gly Asn Ala Glu Glu
277  865                 870                 875                 880
278  Glu Cys Ala Thr Phe Ser Ala His Ser Gly Ser Leu Lys Lys Gln Ser
279                  885                 890                 895
280  Pro Lys Val Thr Phe Glu Cys Glu Gln Lys Glu Glu Asn Gln Gly Lys
281              900                 905                 910
282  Asn Glu Ser Asn Ile Lys Pro Val Gln Thr Val Asn Ile Thr Ala Gly
283          915                 920                 925
284  Phe Pro Val Val Gly Gln Lys Asp Lys Pro Val Asp Asn Ala Lys Cys
285      930                 935                 940
286  Ser Ile Lys Gly Gly Ser Arg Phe Cys Leu Ser Ser Gln Phe Arg Gly
287  945                 950                 955                 960
288  Asn Glu Thr Gly Leu Ile Thr Pro Asn Lys His Gly Leu Leu Gln Asn
289                  965                 970                 975
290  Pro Tyr Arg Ile Pro Pro Leu Phe Pro Ile Lys Ser Phe Val Lys Thr
291              980                 985                 990
292  Lys Cys Lys Lys Asn Leu Leu Glu Glu Asn Phe Glu Glu His Ser Met
293          995                 1000                1005
294  Ser Pro Glu Arg Glu Met Gly Asn Glu Asn Ile Pro Ser Thr Val Ser
295      1010                1015                1020
296  Thr Ile Ser Arg Asn Asn Ile Arg Glu Asn Val Phe Lys Gly Ala Ser
E--> 297  1025                1030                1035                104
298  Ser Ser Asn Ile Asn Glu Val Gly Ser Ser Thr Asn Glu Val Gly Ser
299                  1045                1050                1055
300  Ser Ile Asn Glu Ile Gly Ser Ser Asp Glu Asn Ile Gln Ala Glu Leu
301              1060                1065                1070
302  Gly Arg Asn Arg Gly Pro Lys Leu Asn Ala Met Leu Arg Leu Gly Val
303          1075                1080                1085
304  Leu Gln Pro Glu Val Tyr Lys Gln Ser Leu Pro Gly Ser Asn Cys Lys
305      1090                1095                1100
306  His Pro Glu Ile Lys Lys Gln Glu Tyr Glu Glu Val Val Gln Thr Val
E--> 307  1105                1110                1115                112
308  Asn Thr Asp Phe Ser Pro Tyr Leu Ile Ser Asp Asn Leu Glu Gln Pro
```

move number 1 space to left or use less amino acids per line

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

```
     309                 1125                1130                1135
     310  Met Gly Ser Ser His Ala Ser Gln Val Cys Ser Glu Thr Pro Asp Asp
     311              1140                1145                1150
     312  Leu Leu Asp Asp Gly Glu Ile Lys Glu Asp Thr Ser Phe Ala Glu Asn
     313          1155                1160                1165
     314  Asp Ile Lys Glu Ser Ser Ala Val Phe Ser Lys Ser Val Gln Arg Gly
     315      1170                1175                1180
     316  Glu Leu Ser Arg Ser Pro Ser Pro Phe Thr His Thr His Leu Ala Gln
E--> 317  1185                1190                1195                120
     318  Gly Tyr Arg Arg Gly Ala Lys Lys Leu Glu Ser Ser Glu Glu Asn Leu
     319                 1205                1210                1215
     320  Ser Ser Glu Asp Glu Glu Leu Pro Cys Phe Gln His Leu Leu Phe Gly
     321              1220                1225                1230
     322  Lys Val Asn Asn Ile Pro Ser Gln Ser Thr Arg His Ser Thr Val Ala
     323          1235                1240                1245
     324  Thr Glu Cys Leu Ser Lys Asn Thr Glu Glu Asn Leu Leu Ser Leu Lys
     325      1250                1255                1260
     326  Asn Ser Leu Asn Asp Cys Ser Asn Gln Val Ile Leu Ala Lys Ala Ser
E--> 327  1265                1270                1275                128
     328  Gln Glu His His Leu Ser Glu Glu Thr Lys Cys Ser Ala Ser Leu Phe
     329                 1285                1290                1295
     330  Ser Ser Gln Cys Ser Glu Leu Glu Asp Leu Thr Ala Asn Thr Asn Thr
     331              1300                1305                1310
     332  Gln Asp Pro Phe Leu Ile Gly Ser Ser Lys Gln Met Arg His Gln Ser
     333          1315                1320                1325
     334  Glu Ser Gln Gly Val Gly Leu Ser Asp Lys Glu Leu Val Ser Asp Asp
     335      1330                1335                1340
     336  Glu Glu Arg Gly Thr Gly Leu Glu Glu Asn Asn Gln Glu Glu Gln Ser
E--> 337  1345                1350                1355                136
     338  Met Asp Ser Asn Leu Gly Glu Ala Ala Ser Gly Cys Glu Ser Glu Thr
     339                 1365                1370                1375
     340  Ser Val Ser Glu Asp Cys Ser Gly Leu Ser Ser Gln Ser Asp Ile Leu
     341              1380                1385                1390
     342  Thr Thr Gln Gln Arg Asp Thr Met Gln His Asn Leu Ile Lys Leu Gln
     343          1395                1400                1405
     344  Gln Glu Met Ala Glu Leu Glu Ala Val Leu Glu Gln His Gly Ser Gln
     345      1410                1415                1420
     346  Pro Ser Asn Ser Tyr Pro Ser Ile Ile Ser Asp Ser Ser Ala Leu Glu
E--> 347  1425                1430                1435                144
     348  Asp Leu Arg Asn Pro Glu Gln Ser Thr Ser Glu Lys Ala Val Leu Thr
     349                 1445                1450                1455
     350  Ser Gln Lys Ser Ser Glu Tyr Pro Ile Ser Gln Asn Pro Glu Gly Leu
     351              1460                1465                1470
     352  Ser Ala Asp Lys Phe Glu Val Ser Ala Asp Ser Ser Thr Ser Lys Asn
     353          1475                1480                1485
     354  Lys Glu Pro Gly Val Glu Arg Ser Ser Pro Ser Lys Cys Pro Ser Leu
     355      1490                1495                1500
     356  Asp Asp Arg Trp Tyr Met His Ser Cys Ser Gly Ser Leu Gln Asn Arg
E--> 357  1505                1510                1515                152
```

see page 6

RAW SEQUENCE LISTING DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:43

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

```
     358  Asn Tyr Pro Ser Gln Glu Glu Leu Ile Lys Val Val Asp Val Glu Glu
     359                  1525                1530                1535
     360  Gln Gln Leu Glu Glu Ser Gly Pro His Asp Leu Thr Glu Thr Ser Tyr
     361              1540                1545                1550
     362  Leu Pro Arg Gln Asp Leu Glu Gly Thr Pro Tyr Leu Glu Ser Gly Ile
     363          1555                1560                1565
     364  Ser Leu Phe Ser Asp Asp Pro Glu Ser Asp Pro Ser Glu Asp Arg Ala
     365      1570                1575                1580
     366  Pro Glu Ser Ala Arg Val Gly Asn Ile Pro Ser Ser Thr Ser Ala Leu
E--> 367  1585                1590                1595                160
     368  Lys Val Pro Gln Leu Lys Val Ala Glu Ser Ala Gln Gly Pro Ala Ala
     369                  1605                1610                1615
     370  Ala His Thr Thr Asp Thr Ala Gly Tyr Asn Ala Met Glu Glu Ser Val
     371              1620                1625                1630
     372  Ser Arg Glu Lys Pro Glu Leu Thr Ala Ser Thr Glu Arg Val Asn Lys
     373          1635                1640                1645
     374  Arg Met Ser Met Val Val Ser Gly Leu Thr Pro Glu Glu Phe Met Leu
     375      1650                1655                1660
     376  Val Tyr Lys Phe Ala Arg Lys His His Ile Thr Leu Thr Asn Leu Ile
E--> 377  1665                1670                1675                168
     378  Thr Glu Glu Thr Thr His Val Val Met Lys Thr Asp Ala Glu Phe Val
     379                  1685                1690                1695
     380  Cys Glu Arg Thr Leu Lys Tyr Phe Leu Gly Ile Ala Gly Gly Lys Trp
     381              1700                1705                1710
     382  Val Val Ser Tyr Phe Trp Val Thr Gln Ser Ile Lys Glu Arg Lys Met
     383          1715                1720                1725
     384  Leu Asn Glu His Asp Phe Glu Val Arg Gly Asp Val Val Asn Gly Arg
     385      1730                1735                1740
     386  Asn His Gln Gly Pro Lys Arg Ala Arg Glu Ser Gln Asp Arg Lys Ile
E--> 387  1745                1750                1755                176
     388  Phe Arg Gly Leu Glu Ile Cys Cys Tyr Gly Pro Phe Thr Asn Met Pro
     389                  1765                1770                1775
     390  Thr Asp Gln Leu Glu Trp Met Val Gln Leu Cys Gly Ala Ser Val Val
     391              1780                1785                1790
     392  Lys Glu Leu Ser Ser Phe Thr Leu Gly Thr Gly Val His Pro Ile Val
     393          1795                1800                1805
     394  Val Val Gln Pro Asp Ala Trp Thr Glu Asp Asn Gly Phe His Ala Ile
     395      1810                1815                1820
     396  Gly Gln Met Cys Glu Ala Pro Val Val Thr Arg Glu Trp Val Leu Asp
E--> 397  1825                1830                1835                184
     398  Ser Val Ala Leu Tyr Gln Cys Gln Glu Leu Asp Thr Tyr Leu Ile Pro
     399                  1845                1850                1855
     400  Gln Ile Pro His Ser His Tyr
     401              1860
```

VERIFICATION SUMMARY DATE: 06/25/2002
PATENT APPLICATION: US/09/982,835 TIME: 10:06:44

Input Set : A:\gl5047u2.txt
Output Set: N:\CRF3\06252002\I982835.raw

L:27 M:220 C: Keyword misspelled or invalid format, [(A) APPLICATION NUMBER:]
L:28 M:220 C: Keyword misspelled or invalid format, [(B) FILING DATE:]
L:154 M:254 E: No. of Bases conflict, Input:5710 Counted:5711 SEQ:1
L:154 M:204 E: No. of Bases differ, LENGTH:Input:5710 Counted:5711 SEQ:1
L:297 M:332 E: (32) Invalid/Missing Amino Acid Numbering, SEQ ID:2
M:332 Repeated in SeqNo=2

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MAR 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, CANADA K1P 1-J9

In re Application of :
Kailash C. Vasudeva :
Application No. 09/982,856 :
Filed: October 22, 2001 :
For: DROP-BIN CONTAINERS AND HOLDERS FOR SAME :

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicant's Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on October 28, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated December 23, 2002 and a Notice to that effect was mailed on October 2, 2003.

Petitioner states that a response was filed on March 24, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated March 24, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Further, the copy of the facsimile confirmation/transmittal page having the March 24, 2003 date cannot be relied upon as proof of timely filing the response. See section 512 of the MPEP.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/cps: 2/27/04

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JUN 21 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

In re Application of
Kailash C. Vasudeva
Application No. 09/982,856
Filed: October 22, 2001
For: DROP-BIN CONTAINERS AND HOLDERS FOR SAME

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on April 23, 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 March 24, 2003 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/mjz: 5/14/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100319

DATE : March 19, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7321051

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

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Paper No. 14

Brian H. Buck
c/o Deere & Company
One John Deere Place
Moline, IL 61265-8098

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Link et al.	:	
Application No.: 09/982,914	:	ON PETITION
Filed : October 19, 2001	:	
Attorney Docket No. : 15892-US	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed October 1, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 2, 2004. A Notice of Abandonment was mailed April 28, 2004.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 3745 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 11

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of	:	
Yoo et al.	:	
Application No. 09/982,980	:	ON PETITION
Filed: October 22, 2001	:	
Attorney Docket No. 9323.013.00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 14, 2003. A Notice of Abandonment was mailed on August 26, 2003.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 21 2004

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

In re Application of:
Patti et al.
Serial No.: 09/982,992
Filed: October 22, 2001
Attorney Docket No.: P06922US02/BAS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on October 13, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed March 24, 2004.

A review of the file history shows that the examiner mailed a non-final Office action to applicants on March 24, 2004, setting a three-month statutory time period for reply. On October 6, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on September 24, 2004 as evidenced by a copy of the date-stamped receipt card. Applicants also provide a copy of the response to the Office action with the petition. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and will be forwarded to the examiner for consideration of the response of September 24, 2004.

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 Seidel for

Bruce 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

Paper No. 4

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST., NW
SUITE 300
WASHINGTON, DC 20005

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JAN 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Alfred Wing Kin Chan :
Application No. 09/982,993 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 401432 :

This is a decision on the papers styled "Petition To Accord Filing Date and Request For Refund" filed on December 6, 2001, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 22, 2001, including the specification.

The application was filed on October 22, 2001. However, on November 26, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" that stated the application had not been accorded a filing date, and that the specification is missing.

In response, on December 6, 2001, the instant petition, a copy of the specification (six (6) pages), claims (one (1) page) and abstract (one (1) page) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of six (6) pages of specification, the abstract and one (1) page of claims on October 22, 2001. A review of the application file confirms that the specification is missing. The review also indicates the one (1) page of claims and the abstract are also missing. It is assumed that the specification, claims and abstract were misplaced by the Office and that the application was complete for filing date purposes as filed on October 22, 2001.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on December 6, 2001 has been refunded to deposit account no. 12-1216.

This application will be returned to OIPE for further processing with a filing date of October 22, 2001, using the copy of the specification, claims and abstract supplied on December 6, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

MAILED

MAR 1 9 2003

Director's Office
Group 3700

Paper No. 8

In re Application of
KIMURA ET AL.
Application No.: 09/983,017
Filed: October 22, 2001

DECISION ON PETITION
TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on August 2, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on July 26, 2002 be restarted to run from the actual mailing date shown by the envelope postmark.

The petition is dismissed.

MPEP 710.06 states in part:

> The Office will grant a petition to restart the previously set period for reply to an Office action to run from the postmark date shown on the Office mailing envelope which contained the Office action when the following criteria are met:
>
> (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;
>
> (B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and
>
> (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office action was received in the postmarked envelope.

In this case, item (B) was not met since the reply period was not for the payment of the issue fee or a reply period set at 1 month or 30 days. The shortened statutory period for reply set by the examiner was three months.

Summary: Dismissed.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

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GRIFFIN & SZIPL, PC
SUITE PH-1
2300 NINTH STREET, SOUTH
ARLINGTON, VA 22204

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of :
Keiichiro Oishi :
Application No. 09/983,029 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. SUGI 0085 :

This is a decision on the petition, filed January 6, 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 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1742 for further processing of the request for continued examination under 37 CFR 1.114 filed January 6, 2005.

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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ALEXANDRIA, VA 22313-1450
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Charles F. Wieland III
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria VA 22313-1404

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FEB 23 2006

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
KIM, SANG-KYUN, et al :
Serial No.: **09/983032** :
Filed: **October 22, 2001** :
For: **METHOD AND APPARATUS FOR SECTIONING IMAGE INTO PLURALITY OF REGIONS** :

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, August 15, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 13A, 13B, 14A, 14B,15A, and 15B, be accepted in lieu of black and white drawings.

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

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

The petition was filed without the proper language mentioned in the paragraph above with the "Amendment to the Specification" filed 8/15/05.

The petition is **DENIED.**

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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January 17, 2006

Steven B. Kelber
MERCHANT & GOULD PC
P. O. Box 2903
Minneapolis, MN 55402-0903

Patent No.: 6908491 B2
Application No.: 09/983070
Inventor(s): Vince Fischer, et al.
Issued: June 21, 2005
Title: SYSTEM AND METHOD FOR COLOR-REVITALIZING HAIR

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. 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).

In view of the foregoing, your request, in this mater, is hereby denied.

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 certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. Include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
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
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED
MAY 22 2006
OFFICE OF PETITIONS

In re Patent No. 6,908,491 :
Issued: June 21, 2005 :
Application No. 09/983,070 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket Number: 3768-088-27 :

This is a decision on the petition, filed February 15, 2006, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front of the Patent,

The petition is **GRANTED**.

Petitioner states that the name of the first assignee was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the first assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for certificate of correction (and fee) as required by 3.81(b) was filed November 10, 2005 and dismissed in a decision mailed January 17, 2006 since the request was not accompanied by a petition under 37 CFR 3.81.

Office assignment records however, reflect that KAO Corporation is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

---

[1] *See* Official Gazette of June 22, 2004

The petition fee and the fee for the certificate of correction have been properly posted to the finance records for this patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
Eiichi Tamaki :
Application No. 09/983,074 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket No. 50099-185 :

This is a decision on the petition, filed October 12, 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 17, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2861 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/4/07

Paper No.: _____

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7139096

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.

Return Code is COCX

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

XX ☐ **Approved** — **All** changes apply.

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

☐ **Denied** — State the reasons for denial below.

Comments:

/Edward L. Coles/ — SPE

2625 — Art Unit

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NOV 15 2005

Director's Office
Group 3700

Paper No. 9

W. Dennis Moss
RIDOUT & MAYBEE LLP
Suite 901
2 Robert Speck Parkway
Mississauga, CANADA L4Z 1H8

In re Application of
WU ET AL.
Appl No.: 09/983,106
Filed: October 23, 2001
For: SELF-ENCLOSING HEAT EXCHANGER WITH CRIMPED TURBULIZER
Attorney Docket Number: 39076-0389

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed August 7, 2003 for failure to timely pay the issue fee as required by Notice of Allowance mailed April 8, 2003. In view of petitioner's comments in the paper submitted September 30, 2003, the request is treated as a petition to withdraw of the holding of abandonment pursuant to 37 CFR 1.181 based on non-receipt of the office action. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed August 7, 2003 is hereby vacated and 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 office action of April 8, 2003. 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. It is noted that petitioner has submitted a filled out PTOL-85 with a due date of July 8, 2003 with this petition. However, this PTOL-85 is untimely. Applicant must fill out and return the PTOL-85 that is mailed with the remailed office action within the statutory period.

Richard A. Bertsch, Director
Technology Center 3700

Pet. Dec.

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 23313-1450
WWW.USPTO.GOV

Mailed: 9/16/05

JJS
Paper No.

In re Application of OKAMITSU et al
Serial No.: 09/983208
Filed: October 23, 2001

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: **FREE RADICAL POLYMERIZATION METHOD HAVING REDUCED PREMATURE TERMINATION, APPARATUS FOR PERFORMING THE METHOD, AND PRODUCT FORMED THEREBY**

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed June 29th 2004 to correct inventorship under 37 CFR 1.48(a) by adding the names of Rong Bao and Sonny Jonsson to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

James J. Seidleck
Supervisory Patent Examiner
Art Unit 1711
Technology Center 1700

William Solomon
1300 North Seventeenth St.
Suite 1800
Arlington Virginia, 22209

UNITED STATES PATENT AND TRADEMARK OFFICE

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

McGINN & GIBB
SUITE 200
8321 OLD COURTHOUSE ROAD
VIENNA, VA 22182-3817

COPY MAILED

JAN 0 2 2004

OFFICE OF PETITIONS

In re Application of :
Tadaaki Tsuda et al :
Application No. 09/983,250 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket No. 2000-323977US :

This is a decision on the petition under 37 CFR 1.313(c), filed December 16, 2003, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 13, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. **6**

MORGAN & FINNEGAN LLP
345 PARK AVENUE
NEW YORK, NEW YORK 10154-0053

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NOV 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Richard J. Davies et al :
Application No. 09/983,289 : DECISION GRANTING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 4278-4001US1 :

This is a decision on the petition, filed October 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 August 28, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of March 6, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3626 for examination in due course.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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JUL 12 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,186	:	
Johnson et al.	:	DECISION ON REQUEST FOR
Issue Date: February 1, 2005	:	RECONSIDERATION OF
Application No. 09/983,322	:	PATENT TERM ADJUSTMENT
Filed: October 24, 2001	:	and
Atty Docket No. 065640-0185	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)," filed March 14, 2005. Patentees request that the patent term adjustment recited in the patent be corrected from one hundred sixty-nine (169) days to two hundred fifty-one (251) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred fifty-one (251)** days.

On February 1, 2005, the above-identified application matured into U.S. Patent No. 6,849,186. The instant request for reconsideration filed March 14, 2005 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 169 days. The initial determination of PTA of 251 days was reduced by 82 days for applicants' submission of a declaration for patent on November 12, 2004, after the mailing of a notice of allowance on September 9, 2004. Patentees contend that there should have

been no reduction for the filing of the declaration. Patentees state that the Office lost the executed declaration filed on May 15, 2002. Per a request by the Office, an additional copy of the declaration was provided on November 12, 2004. In support thereof, patentees submit a copy of their date-stamped and itemized return postcard, evidencing the filing of a declaration on May 15, 2002.

Patentees' arguments are well taken. It is concluded that under the circumstances the resubmission of the declaration should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). Patentees have shown, and the record supports a conclusion, that the declaration was previously submitted on May 15, 2002, prior to the mailing of the notice of allowance. (The initial determination of PTA includes a reduction for the original filing of the response to Notice to File Missing Parts, pursuant to 1.704(b)).

In view thereof, the patent term adjustment indicated on the patent should be two hundred fifty-one (251) 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 TWO HUNDRED FIFTY-ONE (251) days.

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

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES 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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED

JUN 17 2003

OFFICE OF PETITIONS

In re Application of
Bova
Application No. 09/983,356
Filed: October 24, 2001
Attorney Docket No. 2105-104

ON PETITION

This is a decision on the petition, filed June 13, 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 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOWELL & DOWELL PC
SUITE 309
1215 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

NOV 2 7 2002

OFFICE OF PETITIONS

Applicant: Chen et al.
Appl. No.: 09/983,365
Filing Date: October 24, 2001
Title: SHARED CHANNEL STRUCTURE, ARQ SYSTEMS AND METHODS
Attorney Docket No.: 71493-1001 /ala
Pub. No.: US 2002/0105929 A1
Pub. Date: August 8, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 23, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-22-2005

TO SPE OF : ART UNIT 2672

SUBJECT : Request for Certificate of Correction on Patent No.: 6,833,845

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

MAGDALENE TALLEY

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/ 2628

SPE **Art Unit**

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

Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Box IP
Washington, D.C. 20007

MAIL

OCT 15 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Dean Moses et al.
Application No. 09/983,406
Filed: October 24, 2001
For: METHOD AND SYSTEM FOR THE INTERNATIONALIZATION OF COMPUTER PROGRAMS EMPLOYING GRAPHICAL USER INTERFACE

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

This is a decision on the petition, filed August 15, 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.

The Petition is **DISMISSED**

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

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

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

(b) Presents all claims directed to a single invention, ...

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

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

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

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

Applicant's submission is deficient in that it merely reproduces a substantial portion of the Abstract provided in each of the references. It fails to provide a ***detailed discussion*** of the references as required by section (e) to the extent required by 37 CFR 1.111(b) and (c).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 17 2003

Technology Center 2100

Paper No. 11

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K STREET, NW
BOX IP
WASHINGTON DC 20007

In re Application of: Moses et al.
Application No. 09/983,406
Filed: October 24, 2001
For: METHOD AND SYSTEM FOR THE INTERNATIONALIZATION OF COMPUTER PROGRAMS EMPLOYING GRAPHICAL USER INTERFACE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed December 20, 2002 under 37 C.F.R. §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. § 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

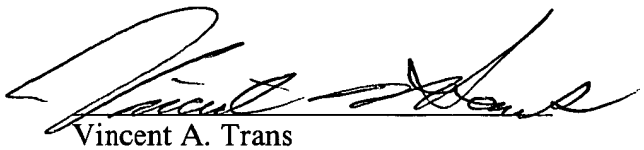
(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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.

Petitioner's submissions of December 20, 2002 meet the criteria set forth above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.



Vincent A. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and
Information Security

S

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 18, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/983436 Patent No.: 7236644 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: Typos not affecting scope

BRIAN WERNER
SUPERVISORY PATENT EXAMINER

SPE

2624
Art Unit

emark Office

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)
6501011	2002-12-31	09983466	2001-03-21	

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	/Shai Ben Moshe/	Date (YYYY-MM-DD)	2007-11-19
Name	Shai Ben Moshe		
Enter Reel and Frame Number		Remove	
Reel Number	012610	Frame Number	0119
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6501011
Issue Date: December 31,2002
Application No. 09983466
Filed: March 21,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 19,2007 ,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 November 19,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: 9/22/05

In re application of :
Uchida, Maki et al. : DECISION ON
Serial No. 09/983,471 : PETITION
Filed: October 24, 2001 :
For: Electrophotosensitive Material And Method Of Producing :
The Same

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed March 8, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed December 8, 2003, be withdrawn since the applicant did respond to the Office Action mailed April 28, 2003.

DECISION

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

A final rejection was mailed on April 28, 2003. On October 27, 2003 applicants filed a response in the form of a divisional application, along with a three-month Petition for Extension of time and a return receipt postcard. Applicants have provided a copy of the returned postcard bearing a date stamp of October 29, 2003.

Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection. Failure to properly reply under 37 CFR 1.113 to the final rejection results in abandonment. A reply under 37 CFR 1.113 is limited to:

(A) an amendment complying with 37 CFR 1.116;

(B) a Notice of Appeal (and appeal fee); or

(C) a request for continued examination (RCE) filed under 37 CFR 1.114 with a submission (i.e., an amendment that meets the reply requirement of 37 CFR 1.111) and the fee set forth in 37 CFR 1.17(e).

Applicants' request for a three-month extension of time extended the time period for response to October 29, 2003. The filing of a divisional is not a proper reply under 37 CFR 1.113 to the final rejection. The application was abandoned in fact on 10/29/03.

Applicants filed a request for express abandonment on 12/15/03. The request for express abandonment was not proper since the application was abandoned on 10/29/03

The Petition is **DISMISSED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert G. Weilacher
Smith, Gambrell & Russell, LLP
Suite 3100, Promenade II
1230 Peachtree Street, NE
Atlanta, GA 30309-3592

SN 09983478
COCX

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/21/05

Paper No.: ____

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction on Patent No.: 6857100 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

ALBERT DECADY
SUPERVISORY PATENT EXAMINER

SPE 2133 **Art Unit**

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11TH FLOOR
WASHINGTON DC 20005-3500

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jun Koyama :
Application No. 09/983,479 :
Filed: October 24, 2001 :
Attorney Docket No. 12732-079001 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 1, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2821 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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KIMTON N. ENG, ESQ.
DORSEY & WHITNEY LLP
SUITE 3400
1420 FIFTH AVENUE
SEATTLE, WA 98101

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OFFICE OF PETITIONS

In re Application of :
Jun Koyama :
Application No. 09/983,479 : ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. 12732-079001

This is a decision on the petition, filed January 9, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2821 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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GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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JAN 19 2007

OFFICE OF PETITIONS

In re Application :
Schneider, et al. : DECISION ON APPLICATION FOR
Application No. 09/983,497 : PATENT TERM ADJUSTMENT
Filed: October 24, 2001 :
Attorney Docket No. P21486 :
:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed October 26, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred four (204) days to two hundred five (205) days.

The application for patent term adjustment is **DISMISSED**.

On July 28, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred four (204) days. On October 26, 2006, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred five (205) days.

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

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[1] Applicant filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of two hundred four (204) days based on an adjustment for PTO delay of three hundred fifteen (315) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicant's delays of thirty (30), thirty-three (33), ten (10) and one (1) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), and thirty-seven (37) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. 1.704(c)(8). The adjustment of one (1) day is at issue.

Applicant argues that he timely responded to a April 4, 2006 non-final Office action on July 5, 2006. According to applicant, because July 4, 2006 fell on a federal holiday, July 5, 2006 was the next succeeding business day and was therefore timely.

Applicant was properly assessed delay of one (1) day for filing an amendment on July 5, 2006, in response to an Office action mailed on April 4, 2006. 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three month period. Therefore, the "carry-over" provision of 35 U.S.C. 21(b) does not apply to the three month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred four (204)** days (315 days of PTO delay reduced by 111 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A Fries

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

OIPE
OCT 26 2006
PATENT & TRADEMARK OFFICE

DAC

00075991.DOC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Reinhold SCHNEIDER et al.

Group Art Unit: 3726

Serial No : 09/983,497

Examiner: Compton, Eric B.

Filed : October 24, 2001

For : PROCESS FOR MANUFACTRING A CYLINDRICAL HOLLOW BODY AND HOLLOW BODY MADE THEREBY

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705 (b)

Sir:

Further to the Determination of Patent Term Adjustment mailed by the U.S. Patent and Trademark Office on July 28, 2006, which incorrectly indicates a Patent Term Adjustment (PTA) of 204 days, and to the information from the U.S. Patent and Trademark Office Patent Application Information Retrieval (PAIR) system (a copy of the screen shot from the PAIR system being enclosed herewith), Applicants respectfully submit that the Patent Term Adjustment of 204 days as set forth in the PAIR system is incorrect and requests that the Patent Term Adjustment be corrected to indicate the PTA of 205 days for the reasons which follow.

10/27/2006 HBERHE1 00000174 09983497
01 FC:1455 200.00 OP

Statement of Facts

In accordance with the instructions from the U.S. Patent and Trademark Office, Applicants have checked the PAIR site, which indicates the PTA to be 204 days (based on 315 days of PTO delay, less 111 days of Applicants' delay) as noted on the enclosed copy of the screen shot from the PAIR site. However, the maximum number of days attributable to Applicants should be **110, not 111, days**.

A non-final office action was mailed on April 4, 2006. A Response was submitted on July 5, resulting in a "delay" attributable to Applicants ("Applicant delay") of **1 day**.

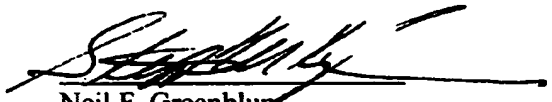
Applicants note that the data in the PTA History has been reviewed and compared with the data in the records of the undersigned. In this regard, Applicants note that the amount of Applicant delay stated in the PAIR site appears to be incorrectly based on the filing of the response one day later than the 3-month shortened statutory period which fell on July 4, 2006. However, Applicants note that July 4 is a Federal holiday and thus, the expiration of the shortened statutory period actually did not occur until and including July 5, 2006, the next business day. Therefore no days of Applicant delay should have been calculated based on the actual filing date of the Response, *i.e.*, July 5, 2006. Further, Applicants note that the PTO delay is correctly listed as 315 days, based on the period from filing of the application (October 21, 2001) to the mailing date of the initial action on the merits. Accordingly, the actual PTA should be 315 days of delay by the Patent and

Trademark Office, less 110 days of delay by Applicant, which results in 205 days of PTA.. Accordingly, Applicants respectfully request that the PTA term be corrected to 205 days as opposed to the 204 days currently designated in the PAIR system.

Applicants note that the above identified application is not subject to any terminal disclaimer.

A check including the amount of $200.00 to cover the fee set forth in 37 C.F.R. § 1.18 (e) for filing an application for patent term adjustment is enclosed herewith. The U.S. Patent and Trademark Office is hereby authorized to credit any overpayment or charge any additional fee to Deposit Account No. 19-0089.

Respectfully submitted,
Reinhold SCHNEIDER et al.



Neil F. Greenblum
Reg. No. 28,394

Stephen M. Roylance
Reg. No. 31,296

October 23, 2006
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, Va. 20191
(703) 716-1191

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TOWNSEND AND TOWNSEND AND CREW, LLP
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OFFICE OF PETITIONS

In re Application of :
Richard L. Zinser, Jr. :
Application No. 09/983,513 : ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. 18180.0174 :

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 June 5, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on October 15, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 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 indicating a projected publication date of October 16, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2654 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Nancy Johnson
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Andrew Arthur Hunter :
Application No. 09/983,620 : DECISION ON PETITION
Filed: October 25, 2001 : PURSUANT TO
Attorney Docket No.: : 37 C.F.R. § 1.137(B)
30014340-1 :
Title: METHOD OF AND :
APPARATUS FOR DIGITAL IMAGE :
PROCESSING :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 7, 2009, to revive the above-identified application.

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

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 2, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on April 3, 2009.

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

1 See MPEP §710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, along with the proper statement of unintentional delay. A terminal disclaimer is not required. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The publication and issue fees will be charged to Petitioner's Deposit Account in due course, as authorized in the Issue Fee Transmittal that was submitted concurrently with this petition.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[4] All other inquiries

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3 See Rule 1.137(d).
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.

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 13TH STREET NW
WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Junichi Shiomi	:	
Application No. 09/983,633	:	DECISION GRANTING PETITION
Filed: October 25, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50063-062	:	

This is a decision on the petition, filed March 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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Paper No. 7

MCDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Wagner, et al.
Application No. 09/983,637
Filed: October 25, 2001
Attorney Docket No. 54265-141

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed June 10, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on April 19, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of October 9, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 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: Notice Regarding Rescission of Nonpublication Request
(1 page)

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REINHART BOERNER VAN DEUREN LTD.
483 NORTH MULFORD ROAD
SUITE 7
ROCKFORD IL 61107

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Wagner et al.	:	
Application No. 09/983,637	:	ON PETITION
Filed: October 25, 2001	:	
Attorney Docket No. 503288	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed February 17, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 18, 2005.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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PATENT ADMINISTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

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SEP 22 2004

OFFICE OF PETITIONS

In re Application of	:
Nadereh Mohtat et al	:DECISION DISMISSING PETITION
Application No. 09/983,661	:UNDER 37 CFR 1.182
Filed: October 25, 2001	:
Attorney Docket No. 213831.00007	:

This is a decision on the petition under 37 CFR 1.182 filed October 10, 2003, to change the order of inventorship in the above-identified application.

The petition is **dismissed**.

Unfortunately, the instant petition did not come to the attention of the deciding official's office until after issuance of the instant application into Patent No. 6,782,152 on August 24, 2004. Nevertheless, for the reasons indicated below, the change in the order of inventorship will not now be entertained. In this regard, attention is directed to the decision of Judge Schall in *Fina Technology Inc. v. Ewen*, 60 USPQ2d 1314 (CA FC 2001), stated:

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director[1] may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. Section 255 does not provide for action by a district court. Rather, the statute permits only the Director to issue a certificate of correction for a clerical error. Furthermore, the order of inventorship does not appear to be the type of mistake

[1] Effective March 29, 2000, the title of the head of the Patent and Trademark Office ("PTO") was changed from "Commissioner" to "Director." Pub. L. No. 106-113, 113 Stat.1501A-582 (1999). Although the district court and the parties refer to the head of the PTO by using the title "Commissioner,"we use the term "Director" to avoid confusion with the current statutory language.

> contemplated by §255. Examples of mistakes that fall under §255 typically include correcting a misspelled word or adding a prior art reference that was submitted to and discussed by the examiner but inadvertently omitted by the applicant on PTO Form 1449 for listing references. *See In re Arnott*, 19 USPQ2d 1049, 1053 (Comm'r Pat. 1991). The order of inventors in the heading of a patent is taken by the PTO directly from the order in which the names appear in the original oath or declaration. Man. Pat. Exam. P., §605.04(f) (7th ed. rev. 1 2000). According to the Manual of Patent Examining Procedure, "no changes will be made [by the Director to the order of inventors] except when a petition under 37 C.F.R. 1.182 is granted."[2] Id. In short, the order of inventors is not a clerical error contemplated by §255, and cannot be corrected in a judicial proceeding under that provision.
>
> It is not problematic for district courts to lack the authority to correct the order of inventors because "the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned." Id. As we stated in Fina I, "if the inventors are properly named on the patent, Fina has no concerns about invalidity of the patent over inventorship problems." 123 F.3d at 1471, 43 USPQ2d at 1940.

In view of the above, since the order in which the names appear on the printed patent is of no consequence insofar as the legal rights of the joint applicants are concerned, and since there was no clerical error as contemplated by 35 U.S.C. § 255, the petition under 37 CFR 1.182 to change the order of inventorship in the above-identified patent must be dismissed. Accordingly, no certificate of correction will be issued to reflect the desired order of inventorship.

Any questions concerning this decision may be directed to Wan Laymon at (703) 306-5685.[3]

This matter is being referred to Files Repository.

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

---

[2] 37 C.F.R. §1.182 (2000) concerns situations that are not specifically provided for in other regulations and authorizes the Director to decide each case that arises in accordance with the merits of the situation.

[3] Effective September 27, 2004, the phone number will be 571-272-3220.

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Paper No. 14

NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

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MAR 30 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Masumi Kubo et al :
Application No. 09/983,665 :
Filed: October 25, 2001 :
Attorney Docket No. 4034-25 :

This is a decision on the petition, filed March 30, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2815 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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
CARETTA et al.	:	
Application No. 09/983,671	:	DECISION ON APPLICATION
Filed: October 25, 2001	:	FOR
Atty Docket No. 7040.0024.01	:	PATENT TERM ADJUSTMENT

This is a decision on the "NOTICE OF POSSIBLE ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 10, 2008, which is properly treated as a petition under 37 CFR 1.705(b). Applicants concur with the patent term adjustment of zero (0) days. However, applicants assert that their calculation of the underlying days of patent term adjustment differs from those of the USPTO.

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 determination at the time of the mailing of the notice of allowance is **zero (0) days** (442 days of Office delay - 751 days of applicant delay). A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 10, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is zero (0) days. Applicants timely filed the instant application for patent term adjustment[1]. Applicants

[1] PALM Records indicate that the Issue Fee payment was received on March 10, 2008.

dispute the reduction of 118 days for applicant delay in responding to the Restriction Requirement mailed October 6, 2003. Applicants state that the response was filed on October 23, 2003, and thus, the reduction pursuant to 37 CFR 1.704(b) should be zero (0) days.

A review of the application file confirms that a "Response to Election of Species Requirement" was filed on October 23, 2003. On May 3, 2004, applicants submitted a copy of the response accompanied by a copy of their itemized return postcard, associated with the filing of the response, with a USPTO date-stamp of October 23, 2003. The date-stamped and itemized postcard receipt serves as prima facie evidence that the original reply was received by the Office on October 23, 2003. See MPEP 503. Under these circumstances, the date of receipt of the response on October 23, 2003, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b). The response was filed within the three-month period under 37 CFR 1.704(b). Applicants did not fail to engage in reasonable efforts to conclude processing by delaying in responding to the Restriction Requirement. The period of reduction of 118 days is not warranted and is being removed.

Additionally, a period of adjustment of 157 days should be entered for the Office's failure to respond to a reply within four months after the date on which the reply was filed pursuant to 37 CFR 1.702(a)(2). As indicated above, applicants filed the "Response to Election of Species Requirement" on October 23, 2003. However, the Office did not respond with the mailing of the nonfinal Office action until July 29, 2004, four months and 157 days later. See 37 CFR 1.703(a)(2). Thus, the Office should be assessed a delay of 157 days. Accordingly, the period of adjustment of 157 days is being entered.

Applicants also dispute the reduction of 129 days pursuant to 37 CFR 1.704(c)(7). Specifically, applicants state:

> On January 27, 2006, Applicants filed an Amendment in response to the Office Action mailed July 28, 2005. On September 21, 2006 (and more than four months after the filing date of the Amendment), Applicants receive a

> Notice of Non-Compliant Amendment for the Amendment filed January 27, 2006. On October 20, 2006, Applicants filed a Response to Notice of Non-Compliant Amendment with a corrected version of the amendments to the claim section of the Amendment filed on January 27, 2006. On January 25, 2007, Applicants received a second Notice of Non-Compliant Amendment for the amendment document filed on October 20, 2006. On February 26, 2007, Applicants filed a Response to Notice of Non-Compliant Amendment stating that the Amendments to the Claim section of the Amendment filed on October 20, 2006, was in fact proper, and that no further amendments to the claims are necessary. Further, Applicants pointed out that the Examiner agreed that the October 20, 2006, Response was proper during a telephonic interview on February 26, 2007. Thus, it appears that the loss of term after the Amendment was filed on October 20, 2006, is improper and that the loss of term from July 28, 2005, to September 21, 2006, discussed above, is excessive.

Petition dated 03/10/08, p. 2.

Applicants' arguments have been considered, but are unpersuasive. Pursuant to 37 CFR 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

The record has been reviewed and it has been determined that the amendment filed on October 20, 2006, was properly held to be non-compliant. The Notice of Non-Compliant Amendment mailed on January 25, 2007, indicated that the amendment of October 20, 2006, was considered non-compliant because it failed to meet the

requirements of 37 CFR 1.121.[2] The Notice required a correction of the following items for the amendment to be compliant:

4. Amendments to the claims,

C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of

---

[2] Pursuant to 37 CFR 1.121(c):

> Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).
>
> (1) Claim listing. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.
>
> (2) When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

> every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
>
> ***
>
> Continuation of 4(e) Other: amendment made to claim 62 without markings indicating the change and with the improper status identifier "new" (should be "currently amended").

As stated in the Notice of Non-Compliant Amendment mailed on January 25, 2007, the amendment of October 20, 2006, did not comply with the requirements of 37 CFR 1.121(c). Moreover, the Examiner did not indicate in the final Office action of June 15, 2007, or the Interview Summary of November 19, 2007, that the amendment of October 20, 2006, was considered to be compliant. Accordingly, the filing of the non-compliant amendment on October 20, 2006, is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7). Thus, the reduction of 129 days for the submission of a reply having an omission is warranted. Moreover, the period of reduction is not excessive. The filing of a reply that is complete and the filing of any supplement necessary to reply having an omission are within the control of the applicant. See Comment 34 and Response in *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (442 days of Office delay - 751 days of applicant delay).

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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 REVISED PAIR Screen

PTA Calculations for Application: 09/983671			
Application Filing Date:	10/25/2001	PTO Delay (PTO):	285
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	869
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	275		

File Contents History

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74	07/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	118		
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72	07/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	129		
64	12/10/2007	MAIL NOTICE OF ALLOWANCE			
63	12/10/2007	MAIL EXAMINER'S AMENDMENT			
62	12/07/2007	ISSUE REVISION COMPLETED			
61	12/07/2007	DOCUMENT VERIFICATION			
60	12/07/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
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57	12/05/2007	NOTICE OF ALLOWABILITY			
54	11/30/2007	DATE FORWARDED TO EXAMINER			
53	11/27/2007	AMENDMENT AFTER FINAL REJECTION		73	47
52	11/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	11/19/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
50	11/15/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
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44	02/26/2007	RESPONSE AFTER NON-FINAL ACTION		129	41
43	01/25/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
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41.1	10/20/2006	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
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36	07/28/2005	MAIL NON-FINAL REJECTION			
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29	12/07/2004	MAIL OF WITHDRAW OF INFORMAL AMENDMENT NOTICE			
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24	11/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	11/15/2004	DATE FORWARDED TO EXAMINER			
22.1	10/29/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
22	10/29/2004	RESPONSE AFTER NON-FINAL ACTION			
21	10/29/2004	WORKFLOW INCOMING AMENDMENT IFW			
20	07/29/2004	MAIL NON-FINAL REJECTION			
19	07/26/2004	NON-FINAL REJECTION			

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14.7	12/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	12/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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11	03/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
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9	10/25/2001	PRELIMINARY AMENDMENT			
8	02/07/2002	APPLICATION DISPATCHED FROM OIPE			
7	02/06/2002	APPLICATION IS NOW COMPLETE			
6	01/28/2002	ADDITIONAL APPLICATION FILING FEES			
5	01/28/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	11/27/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/26/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/30/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/25/2001	INITIAL EXAM TEAM NN			

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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.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080520

DATE : May 20, 2008

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,102,980

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: /Andrea L. Wellington/ **Art Unit** 2627

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SUITE 900
WASHINGTON, DC 20004-2128

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OCT 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Goldstein et al. :
Application No. 09/983,735 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket No. 030793-039100 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed March 25, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 26, 2004. A Notice of Abandonment was mailed October 5, 2004.

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

This matter is now being referred to Technology Center 1600 for further examination on the merits.

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

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
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JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

LEE & MORSE, P.C.
1101 WILSON BOULEVARD
SUITE 2000
ARLINGTON VA 22209

In re Application of
OH, SEOK-HWAN
Application No. 09/983,741
Filed: October 25, 2001
For: **METHOD OF DETECTING MEASUREMENT ERROR IN MEASUREMEN SYSTEM**

DECISION ON PETITION
TO REMAIL OFFICE ACTION

This is a decision on the petition to reset period to reply due to non-receipt, filed May 17, 2005.

A review of the application record indicates that a non-final Office action was properly mailed to the correspondence address of record on February 23, 2005. On March 1, 2005 the non-final Office action was returned by the United States Postal Service as being undeliverable. Petitioner has provided evidence of a change of correspondence address filed June 19, 2002.

MPEP §707.13 [R-2] Returned Office Action, states in part:

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. Ex parte Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

There is clear evidence of record that the non-final Office action of February 23, 2005 was aent to a prior address of record.

Accordingly, the petition is **GRANTED**, the non-final Office action of February 23, 2005 is hereby vacated.

The application being is returned to the Technology Center's technical support staff for mailing the Office action to the current address of record as set forth above. The three month shortened statutory period for responding to the action will be reset to begin as of the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

I already did the 1900 and I'm not sure if anything else is needed.

Carol 7/14/05

LEE & MORSE, P.C.
1101 WILSON BOULEVARD
SUITE 2000
ARLINGTON VA 22209

In re Application of
OH, SEOK-HWAN
Application No. 09/983,741
Filed: October 25, 2001
For: **METHOD OF DETECTING MEASUREMENT ERROR IN MEASUREMEN SYSTEM**

DECISION ON PETITION
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Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

SUPERVISOR, PATENT PROSECUTION SERVICES
PIPER MARBURY RUDNICK & WOLFE LLP
1200 NINETEENTH ST., NW
WASHINGTON, DC 20036-2412

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OFFICE OF PETITIONS

In re Application of
Aristotle G. Kalivretenos
Application No. 09/983,743
Filed: October 25, 2001
Attorney Docket No. 2841-101

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

This is in response to the petition filed June 24, 2002 under 37 CFR 1.47(a) and treated under 37 CFR 1.47 (b)[1], with a request for a five month extension of time.

The petition is dismissed as moot.

The above-identified application was filed on October 25, 2001, without an executed oath or declaration and naming Aristotle G. Kalivretenos as the sole inventor.

Accordingly, on November 23, 2001, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for their late filing. A two month period for reply was set. The instant petition under 37 CFR 1.47 claims that the sole inventor Aristotle G. Kalivretenos refuses to sign the declaration. Proof of refusal is supported by a copy of a letter dated April 19, 2002 addressed to the inventor at his last known address and signed by an attorney with Piper Rudnick. Additional support comes in the form of a letter dated May 3, 2002 and allegedly signed by Aristotle G. Kalivretenos indicating that he had received the materials and that he had forwarded them on to his counsel for review. The latter is deemed by petitioner to be a refusal on the part of the inventor to sign the declaration.

Conversely, in response to the Notice to File Missing Parts, on March 25, 2002, an executed declaration, power of attorney and request for a two month extension of time was filed on behalf of the inventor by counsel other than the petitioner.

In view thereof, the petition is considered to be moot. 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 Rule 1.47(b).

It should also be noted that petitioner has not been identified as the attorney of record in this matter. **All further correspondence to the Patent and Trademark Office**

[1]A petition under 37 CFR 1.47(a) is inappropriate in this instance since there is only one inventor and that inventor refuses to sign the declaration, accordingly, the petition will be treated as a petition under 37 CFR 1.47(b)

(Office) must be signed by the inventor's representative as named in the declaration for patent filed March 25, 2002. A courtesy copy of this decision is being mailed to petitioner but future mailings will only be mailed to the inventor's representative named in the declaration for patent filed March 25, 2002.

Subsequent to the March 25, 2002 filing of the executed declaration and power of attorney, a Notice of Incomplete Reply was mailed April 10, 2002. That Notice reiterated the requirement found in the November 23, 2001 Notice to File Missing Parts, that to avoid abandonment, substitute drawings were required.

In response to the April 10, 2002 Notice of Incomplete Reply, the instant petition includes sixteen sheets of formal drawings accompanied by a request for a five month extension of time, filed by petitioners at Piper Rudnick LLP. The filing of the drawings and the extension requested have been noted and the application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703)305-4497.

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

cc:
GLENN E. KARTA
ROTHWELL, FIGG, ERNST & MANBECK, p.c.
Suite 800, 1425 K Street, NW
Washington, DC 20005

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

September 9, 2003

Reginald R. Robertson
605 River Ave., Apt 605
Winnipeg, MB R3L OE 7
Canada

In re application of:
Reginald R. Robertson DECISION ON PETITION
Serial No.: 09/983,784
Filed: October 25, 2001
For: THE ION CHIP COMPOSITE EMITTER

This is a decision on the petition received by fax on September 3, 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 Corrected Application Papers mailed December 6, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 7, 2002. The Notice of Abandonment was mailed on August 16, 2002.

On September 3, 2003, the office received a communication from the applicant of record. Enclosed was an acknowledgement that the applicant responded to the Notice to File Corrected Application Papers on July 17, 2002 with five months of extensions.

The evidence submitted is sufficient to establish that the applicant responded to the Notice to File Corrected Application Papers on July 17, 2002.

The petition is hereby Granted.

The application has been completed for release to Technology Center 1724.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Craig A. Rosen et al :
Application No. 09/983,802 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket No. PZ010P1M1 :

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 March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1646 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 29, 2006

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/983802 Patent No.: 7,105,644 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Gary B. Nickol — **SPE**

1646 — **Art Unit**

Docket No.: PZ010P1M1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Rosen et al.

Patent No.: 7,105,644

Issued: September 12, 2006

For: Secreted Protein HHTLF25 Antibodies

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.322

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

Sir:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

On the Title Page

At INID (54) Other Publications:

"Skolmick et al." should read --Skolnick et al--.

"Genbank Accession No. AF141377 (Jan. 15, 1999)" should read --Genbank Accession No. AF141377 (Jun. 15, 1999)--.

At INID (57) Abstract:

The phrase "the coding regions genes encoding" should read --the coding regions of the genes encoding--.

On Page 2

At INID (54) Other Publications:

"Brakenhoff et al., "The Human E48 Antigen, Highly Homologous . . .", I. of Cell Bio., 129(6) 1677-1689 (Jun. 1995)." should read --Brakenhoff et al., "The Human E48 Antigen, Highly Homologous . . .", J. of Cell Biol., 129(6):1677-1689 (Jun. 1995).--

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 2 8 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Richard Taylor	:	
Application No. 09/983,817	:	DECISION ON REQUEST TO
Filed: October 26, 2001	:	WITHDRAW AS ATTORNEY
For: PROVISION OF SERVICES VIA AN INFORMATION TECHNOLOGY NETWORK	:	

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL, CANADA H3A 3-H3

COPY MAILED

MAY 13 2008

OFFICE OF PETITIONS

In re Application of :
Naim Karazivan :
Application No. 09/983,829 : DECISION ON PETITION
Filed: October 26, 2001 : TO WITHFRAW
Attorney Docket No. P1001US00 : 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 23, 2006.

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

A review of the file record indicates that the power of attorney to Goudreau Gage Dubuc has been revoked by the assignee of the patent application on June 20, 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: McDermid, Turnbull & Anglehart
Patent and Trade-mark Agents
Suite 1, Sutton House
186, Place Sutton
Beaconsfield QC H9W 5S3 CA CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDERMID, TURNBULL & ANGLEHART
PATENT AND TRADEMARK AGENTS
SUITE 1, SUTTON HOUSE
186, PLACE SUTTON
BEACONSFIELD QC H9W 5S3 CA CANADA

COPY MAILED

NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of
Naim Karazivan
Application No. 09/983,829
Filed: October 26, 2001
Attorney Docket No. P1001US00

ON PETITION

This is a decision in response to the petition, filed July 27, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 9, 2008. This decision precedes the mailing of a Notice of Abandonment. On July 27, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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 $525 extension of time fee submitted with the petition on July 27, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

The application is being referred to Technology Center AU 3732 for appropriate action by the Examiner in the normal course of business on the amendment received July 27, 2008.

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

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

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

COPY MAILED

AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of
Cesare Bottura
Application No. 09/983,841
Filed: October 26, 2001
Attorney Docket No. 860.25

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 12, 2003, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 13, 2003.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)308-5111.

The application file is being forwarded to Technology Center 3600, Art Unit 3676 for processing the Request for Continued Examination under 37 CFR 1.114, filed on June 9, 2004.

Cheryl Gibson-Baylor

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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 05 2006

OFFICE OF PETITIONS

In re Application of :
Kunio Morisawa et al :
Application No. 09/983,874 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 214599US2 DIV :

This is a decision on the petition, filed June 2, 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 July 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/983,874	10/26/2001	Kunio Morisawa	214599US2 DIV	1406

22850 7590 02/08/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
PHAN, HAU VAN	

ART UNIT	PAPER NUMBER
3618	

NOTIFICATION DATE	DELIVERY MODE
02/08/2008	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTORS OFFICE

FEB 07 2008

TECHNOLOGY CENTER 3600

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

January 15, 2008

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:	:	**DECISION ON PETITION**
Kunio Morisawa, et al	:	**REGARDING MISCELANEOUS**
Application No. 09/983,874	:	**SUPERVISORY REVIEW**
Filed: October 26, 2001	:	**UNDER 37 CFR 1.181**

This is in response to the petition filed on July 1, 2005 under 37 CFR 1.181 requesting Supervisory review and an exercise of power to invoke Supervisory authority to require the Examiner to consider cited prior art.

Applicant alleges that the Information Disclosure Statement filed in conformity with the requirements of 37 C.F.R. 1.97-1.98 on November 21, 2001, April 15, 2002 and May 23, 2005 was not considered by the Examiner.

A review of the record reveals that since the filing of the petition, a Notice of Allowability was mailed August 15, 2006 indicating not only allowability, but the proper consideration of the Information Disclosure Statement in question by the Examiner.

Therefore since the Examiner and Applicant agreed on allowable subject matter in the case, Applicant's arguments as to the question of proper consideration of the Information Disclosure Statement in question are considered moot.

The petition is **DISMISSED as moot**.

Telephone inquiries should be directed to Chris Ellis, Supervisory Patent Examiner, at (571) 272-6914

Kathy Matecki

for Paul Dickson, Director
Patent Technology Center 3600
(571) 272-6669

CPE/snm: 01/15/08
SM

2-14-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,046,385
Inventor(s) : Yasuo Mort, et. al.
Issued : May 16, 2006
For: PRINT CONTROL METHOD, APPARATUS, COMPUTER-READABLE STORAGE MEDIUM, AND PROGRAM EMBODIED INA COMPUTER-READABLE MEDIUM FOR MANAGING DOCMENT INFORMATION ON A PAGE BASIS

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged errors for the new claims are denied.

A certificate of correction will issued to correct the remaining errors noted in your request.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC . 20231
Attn: Decisions & Certificates of Correction Branch

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/983,881	10/26/2001	Hidekazu Uehara	215460US3	1413

22850 7590 09/27/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
PATEL, VISHAL A	

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 09/27/2004

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

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	20

DATE MAILED:

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

Commissioner for Patents

IDS filed on July 01, 2004 has been considered.

JJ Swann
Supervisory Patent Examiner
Technology Center 3600

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

S.N. 09983881

September 10, 2004

DECISION ON PETITION UNDER 37 C.F.R. 1.97 FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT

The paper filed July 1, 2004 for consideration of an information disclosure statement filed after allowance has been:

[x] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 C.F.R. 1.97(d)(2)

The petition lacks:

[ ] The required fee under 37 C.F.R. 1.97(d) and 1.17(i)(1).

[ ] A proper certification as specified in 37 C.F.R. 1.97(d) and 1.97(e).

The examiner will consider the information disclosure statement.

JJ Swann
Supervisory Patent Examiner
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 24

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

APR 28 2004

OFFICE OF PETITIONS

In re Application of :
Melissa Alacron-Luther, et al. :
Application No. 09/983,901 : DECISION GRANTING PETITION
Filed: October 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 47004.000139 :

This is a decision on the petition, filed April 14, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on May 23, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 5, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

The application is being returned to Technology Center Art Unit 3628 to await a reply to the final Office action mailed March 30, 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

SPE; M. HOFF

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/11/06

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/983922 Patent No.: 6757627

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

_____ _____

SPE **Art Unit**

SPE; M. Hoff

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/11/06

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/983922 Patent No.: 6757627

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Please enter the changes filed.

MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2857
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. 4

CONNOLLY BOVE LODGE & HUTZ, LLP
1990 M STREET, N.W.
SUITE 800
WASHINGTON, DC 20036

COPY MAILED

FEB 19 2002

OFFICE OF PETITIONS

In re Application of :
Takeuchi, et al. :
Application No. 09/983,926 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 20433/0596 :

This is a decision on the papers styled "Petition To Withdraw Notice of Omitted Item(s) In A Nonprovisional Application" filed on December 20, 2001, which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of October 26, 2001, including page 39 of the specification.

The application was filed on October 26, 2001. However, on November 15, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Items" that stated the application had been accorded a filing date, but page 39 of the specification appears to have been omitted.

In response, on December 20, 2001, the instant petition and a copy of page 39 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of forty-seven (47) pages of specification, on October 26, 2001. A review of the application file indicates the presence of forty-six (46) pages of specification. It is assumed that page 39 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

This application will be returned to OIPE for further processing with a filing date of October 26, 2001, using the copy of page 39 of the specification, supplied on December 20, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE, MION, ZINN
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Patent No. 6,746,816
Hayashi et al.
Issue Date: June 8, 2004
Application No. 09/983,943
Filed: October 26, 2001
Attorney Docket No. Q66208

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT and NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154," filed July 7, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred thirty-seven (137) days to two hundred thirty-six (236) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of two hundred thirty-six (236) days.

On June 8, 2004, the above-identified application matured into U.S. Patent No. 6,746,816. The instant request for reconsideration filed July 7, 2004, was timely filed within 30 days of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment (PTA) of one hundred thirty-seven (137) days. The initial determination of PTA of two hundred thirty-six (236) days was reduced by ninety-nine (99) days for applicants' submission of a paper styled "Statement of Substance of Interview," filed on March 2, 2004. Citing the Office's Official Gazette Notice of June 26, 2001, "Clarification of 37 CFR § 1.704(c)(10)," patentees dispute this reduction.

Patentees' arguments are well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment

pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of ninety-nine (99) days was based on the filing of a paper styled "Statement of Substance of Interview." This paper is not identified as one of the papers the filing of which the Director has specifically deemed not to be a failure to engage in reasonable efforts within the meaning of § 1.704(c)(10). Nonetheless, under the circumstances of this case, it is concluded that the filing of applicants' "Statement of Substance of Interview" is not a failure to engage within the meaning of § 1.704(c)(10). Thus, it is concluded that the reduction of ninety-nine (99) days is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been two hundred thirty-six **(236)** 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 TWO HUNDRED THIRTY-SIX (236) days.

Telephone inquiries specific to this decision should be directed to Nancy Johnson, Senior Petitions Attorney, at (703) 305-0309.

Kery Fries
for

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

Enclosure: DRAFT certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Setoguchi et al	:	DECISION DISMISSING
Appl. No. 09/983,945	:	PETITION UNDER
Patent: 7023403	:	37 CFR 1.183
Filed: October 26, 2001	:	
Issued: April 4, 2006	:	

This is a decision on the applicant's April 5, 2006, petition under 37 CFR 1.183, requesting suspension or waiver of the regulations that require the inventors to sign any supplemental declaration for amendment presenting claims for matter disclosed but not originally claimed.

The petition is **Dismissed**.

The issue fee was paid on February 1, 2006. The patent was issued on April 4, 2006. Petitioner has filed a supplemental declaration and a request for waiver of the requirement that all inventors execute the declaration.

Since the decision in Cutter Co. v. Metropolitan Electric Mfg. Co., 275 F. 158 (2d Cir. 1921), many supplemental oaths and declarations covering the claims in the application have been filed after the applications were allowed. The supplemental oaths and declarations may be filed as a matter of right and will be placed in the file but their receipt will not be acknowledged to the party filing them. See MPEP 603.01.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 20 2004

OFFICE OF PETITIONS

ON PETITION

DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON DC 20037-1526

In re Application of
Todd Bolken
Application No. 09/983,983
Filed: October 26, 2001
Attorney Docket No. M4065.0494/P494

This is a decision on the petition, filed February 19, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

Maria M. Eliseeva
Brown Rudnick Berlack Israels
One Financial Center
18th Floor
Boston, MA 02111

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MAR 0 6 2003

OFFICE OF PETITIONS

In re Application of :
Dan A. Steinberg et al. :
Application No. 09/983,984 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 23369/6 (ACT-157 & ACT-16 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed November 28, 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) have been obtained. Accordingly, the above-identified application became abandoned on January 29, 2002.

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

Telephone inquiries regarding this decision may be directed to 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
WASHINGTON, D.C. 20231
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Paper No. 6

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of :
Myung Cheol Yoo :
Application No. 09/983,994 : DECISION REFUSING STATUS
Filed: October 26, 2001 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 9323.003.00 :

This is in response to the petition filed under 37 CFR 1.47(b) on June 24, 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 October 26, 2001, without an executed oath or declaration.

Accordingly, on November 23, 2001, the Office of Initial Patent Examination (OIPE) sent a "Notice to File Missing Parts of Nonprovisional Application" requiring an executed oath or declaration, and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 28 June, 2001, petitioners submitted, *inter alia*, (a) request and payment of the fee for a fifth (5) month extension of the time for reply to the Notice; (b) the petition fee and late-filing surcharge; and © a declaration signed by G.K. Burt Lancaster, President, CEO of Oriol, Inc, the purported assignee of the above identified patent application, on behalf of inventor Myung Cheol Yoo (Yoo), stating that he and other employees made several attempts prior to the filing of the application and after, to have the sole inventor Yoo, execute the declaration, but that Yoo has refused to do so.

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 being sent or given a copy of the application;
(2) an acceptable oath or declaration;
(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 present petition lacks items (1) and (5).

In regards to item (1), petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to each non-signing inventor for review.[1] The petition states simply that several attempts were made to obtain Yoo's signature. Specifically, petitioner indicates that an oral request was made of Yoo on December 7, 200, but does not show that a copy of the application papers were sent to Yoo. Likewise, proof of the attempts made by Brenda Digiacomo and Thomas Jory to have Yoo execute the declaration and Power of Attorney have not been set out. Petitioner thus has not shown that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent to the non-signing inventor for review.

Petitioner should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details. If the application sent to the inventor was not the application as filed, petitioners must send or give a copy of the application (specification including claims and drawings, if any) as filed to the inventor for review.

In regards to item (5), petitioner has not provided proof that Rule 1.47(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 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

---

[1] MPEP 409.03(d).

[2] MPEP 409.03(f).

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 Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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FEB 0 5 2003

OFFICE OF PETITIONS

In re Application of
Myung Cheol Yoo
Application No. 09/983,994
Filed: October 26, 2001
Attorney Docket No. 9323.003.00

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

Papers filed on January 6, 2003, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on September 16, 2002, included a Declaration signed by the previously nonsigning inventor Myung Cheol Yoo and a request for a two month extension of time.

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 the Office of Initial Patent Examination for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE PC
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Jonathan William Brawn et al	:	
Application No. 09/984,013	:	DECISION GRANTING PETITION
Filed: October 26, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 550-256	:	

This is a decision on the petition, filed February 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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 the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

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ALEXANDRIA, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

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APR 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Yoshitaka Tsunashima, et al. :
Application No. 09/984,036 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 04329.2178-01000 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed April 6, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

Petitioners request that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The petition is **GRANTED** to the extent indicated.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

As to petitioner's request for a refund of the issue fee, petitioner's attention is directed to MPEP 1308.01 which states that a refund may be requested if the examiner has withdrawn the application from issue for the purpose of reopening prosecution. However, in the instant application, the examiner has not reopened prosecution of the application.

Further, pursuant to 37 CFR 1.26, money paid by mistake or in excess, such as payment not required by law, will be refunded. However, the payment of the issue fee was owed and required by law at the time of the payment . Therefore, payment was not made by mistake or in excess of that required as contemplated by 37 CFR 1.26. For this reason, the $1330 issue fee and the $300 publication fee are not refundable. While the $21 advance order fee was not paid by mistake, this fee was not owing or required at the time of payment. Accordingly, the $21 advance order fee will be credited to petitioner's deposit account.

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

The file will be processed as an abandonment application and then forwarded to the Files Repository.

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

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GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Yoshitaka Tsunashima, et al. :
Application No. 09/984,036 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 04329.2178-01000 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed April 6, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

Petitioners request that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The petition is **GRANTED** to the extent indicated.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

As to petitioner's request for a refund of the issue fee, petitioner's attention is directed to MPEP 1308.01 which states that a refund may be requested if the examiner has withdrawn the application from issue for the purpose of reopening prosecution. However, in the instant application, the examiner has not reopened prosecution of the application.

Further, pursuant to 37 CFR 1.26, money paid by mistake or in excess, such as payment not required by law, will be refunded. However, the payment of the issue fee was owed and required by law at the time of the payment . Therefore, payment was not made by mistake or in excess of that required as contemplated by 37 CFR 1.26. For this reason, the $1330 issue fee and the $300 publication fee are not refundable. While the $21 advance order fee was not paid by mistake, this fee was not owing or required at the time of payment. Accordingly, the $21 advance order fee will be credited to petitioner's deposit account.

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

The file will be processed as an abandonment application and then forwarded to the Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/7/10

TO SPE OF : ART UNIT 1648 Hill Myron

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/984056 Patent No.: 7176275

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

Certificates of Correction Branch

703-756-1571 _____

Thank You For Your Assistance

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

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

Comments: _____

/Zachariah Lucas/ 1648

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

NOV 2 7 2002

OFFICE OF PETITIONS

Applicant: Piot et al.
Appl. No.: 09/984,184
Filing Date: October 29, 2001
Title: COSMETIC COMPOSITION COMPRISING AT LEAST ONE FIBER AND AT LEAST ONE WAX
Attorney Docket No.: 05725.0967-00
Pub. No.: US 20020098217 A1
Pub. Date: July 25, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 24, 2002 for the above-identified application.

The request is granted-in-part.

The corrected patent application publication will be published in due course and will only include corrections for errors made by the Office.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

> (a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." The instant request includes a mistake that is not the fault of the Office, which will not be corrected by a corrected publication made by the Office.

Specifically, the error applicant labels "5" request that the phrase "1 pm to 10 mm" be replaced with "1 mm to 10", however the application as originally filed cites "1 μm to 10 mm". The corrected publication will include the phrase "1 μm to 10 mm".

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system

and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington, DC 20231

By facsimile: 703-305-8568

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

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
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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington DC 20037-3202

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JUL 31 2006
OFFICE OF PETITIONS

In re Patent No. 6,943,856 :
Issue Date: September 13, 2005 :
Application No. 09/984,258 : ON PETITION
Filed: October 29, 2001 :
Attorney Docket No. Q66826 :

This is a decision on the petition filed November 14, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to add an assignee (NEC LCD Technologies, Ltd.) on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED.**

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JUN 13 2006

William I. Solomon
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street, Suite #1800
Arlington, VA 22209

In re Application of: H. Odashima et al
Appl. No.: 09/984,264 : DECISION ON PETITION
Filed: October 29, 2001
For: SYSTEM FOR MOUNTING SEMICONDUCTOR DEVICE USING A PEELING ANGLE FIXING JIG AND PRESSING DEVICE FOR PEELING ADHESIVE SHEET

This is a decision on the petition filed on October 15, 2004 requesting supervisory review of the examiner's refusal to accept the Notice of Appeal filed on March 1, 2004 and refusal to enter the amendment of May 3, 2004. The examiner's refusal to accept the Notice of Allowance and entry of the amendment was promulgated in an advisory action dated September 3, 2004 and the petition is therefore timely pursuant to 37 CFR 1.181(f). As the petition is being considered pursuant to 37 CFR 1.181, no fee is required.

The petition is dismissed.

The record shows the following:

1. On August 29, 2003, the examiner issued a first Office action on the merits rejecting elected claims 3 and 4. Non-elected claims 1, 2, 5 and 6 were withdrawn from consideration.
2. In response to the first Office action, on March 1, 2004 the applicants filed a Notice of Appeal to appeal the rejection of claims 3 and 4 to the Board of Patent Appeals and Interferences.
3. On May 3, 2004, the applicants filed an amendment cancelling the appealed claims 3 and 4 and added new claims 7-27.
4. The examiner issued an advisory action on September 3, 2004 and informed the applicant that the Notice of Appeal was not acceptable because claims have not been twice rejected and the amendment of May 3, 2004 has not been entered because it was filed after the Notice of Appeal to appeal the rejection of claims 3 and 4.
5. In response to the advisory action, on Oct. 15, 2004, the current petition was filed. The petitioners request relief by invoking the Director's supervisory authority to:
   A. accept the Notice of Appeal filed on March 1, 2004 as a proper Notice of Appeal under 35 USC 134(a) and 37 CFR 1.191(a); and
   B. enter and consider the amendment filed on May 3, 2004.

Petitioner's Position

The petitioner is of the opinion that Notice of Appeal filed on March 1, 2004 was proper because claims 3 and 4 were twice rejected. The first rejection of the subject matter of claims 3 and 4 were rejected in the related co-pending application SN 09/984,673 on Jan. 8, 2003. The rejection of claims 3 and 4 of Aug. 29, 2003 in the current application was the second time rejected. Therefore, the Notice of Appeal to appeal the rejection of claims 3 and 4 to the Board of Patent Appeals and Interferences was proper under MPEP 1205 in the current application. The petitioner also opined that after the filing of Notice of Appeals the amendment cancelling the appealed claims 3 and 4 and adding new claims 7-27 must be entered and considered because 37 CFR 1.116 does not apply since no final rejection was issued in this case.

Analysis of Application Record

35 U.S.C. 134 (a) Appeal to the Board of Patent Appeals and Interferences;
states: (a) PATENT APPLICANT. — An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

37 CFR 1.116 (c and d) (based on MPEP May 2004 Revision, Page R-79)

§ 1.116 Amendments after final action or appeal. (c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented. (d) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 1.196 or § 1.977.

[24 FR 10332, Dec. 22, 1959; 46 FR 29183, May 29, 1981; para. (a) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50

The first question in this petition is whether or not claims 3 and 4 in the current application were rejected previously in another application SN 09/984673. A review of the application SN 09/984,673 shows original claims 1-5 directed to an IC card fabricating method. The examiner issued a first action rejection of claims 1-5 on Jan. 8, 2003. Whereas claims 3 and 4 in the current application are directed to a semiconductor device mounting system which is totally different from the scope of the original claims 1-5 of SN 09/984673. In response to the rejection, the applicant canceled all rejected claims and added new claims 6-16. Those new claims 6-16 were directed to an electronic component mounting system requiring certain limitations regarding cutting electronic components and peeling angle. The examiner issued a final rejection of claims 6-16 on July 11, 2003. Whereas claims 3 and 4 of the current application 09/984264 are directed to a semiconductor device mounting system requiring certain limitations regarding dicing a semiconductor wafer and conveying peeled adhesive sheet to a mounting position of a mounting board. Based on the above analysis, the claims 6-16 of SN09/984673 clearly have a different scope than claims 3 and 4 of the current application SN09/984264. Therefore, the fact revealed

from the copending application SN 09/984673 does not support the petitioner's position that the claims 3 and 4 were in fact rejected twice.

Applying 35 USC 134 (a) & MPEP 1204, the Notice of Appeal of March 1, 2004 was not a proper response to the non-final Office action of Aug. 29, 2003. Therefore, the refusal of entry of Notice of Appeal filed on March 1, 2004 was proper. With regard to 37 CFR 1.116, since there was no final rejection issued in the current application, then the provisions set forth in 37 CFR 1.116 does not apply. Particularly, the applicant's amendment of May 3, 2004 responsive to the first Office action was filed more than eight months from the date of the first Office action and is considered untimely. The current application is now abandoned due to untimely filed amendment.

Conclusion

For the foregoing reasons, the relief requested by petitioner cannot be granted. Particularly, the Notice of Appeal will not be entered because it was an improper response. Applicant may apply for a refund of the filing fee paid for Notice of Appeal. The amendment responsive to the first Office action Aug. 29, 2003 was not timely filed. Therefore, the current application is deemed abandoned.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3738 for further process. Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. See 37 CFR 1.181(f). Should petitioner have any further questions, he is invited to contact TC 3700 SPRE Henry Yuen at 571-272-4856.

PETITION DISMISSED

Karen M. Young

for Fred Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of :
Hitoshi Odashima et al :
Application No. 09/984,264 : DECISION ON PETITION
Filed: October 29, 2001 :
Attorney Docket No. :
500.36535CX1

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

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 29, 2003, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on March 2, 2004. A Notice of Abandonment was mailed on July 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of August 29, 2003 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 3729 for appropriate action in the normal course of business on the reply received May 3, 2004.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

Applicant: De La Poterie et al.
Appl. No.: 09/984,306
Filing Date: October 29, 2001
Title: FILM-FORMING COSMETIC COMPOSITION
Attorney Docket No.: 05725.0966-00
Pub. No.: US 2002/0085986 A1
Pub. Date: July 4, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 4, 2002 for the above-identified application.

The request is granted.

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

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

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

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Paper No. None

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OFFICE OF PETITIONS

In re Application of
Kuo-Jui Wu
Application No. 09/984,310
Filed: October 29, 2001
Attorney Docket No. 3313-0397P-SP
Title: DATA STRUCTURE AND OPERATION METHOD FOR A/V DISKS

DECISION GRANTING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed November 3, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed February 10, 2005, which set a shortened statutory period for reply of three (3) months. On May 9, 2005, an amendment was received, and an advisory action was mailed on October 28, 2005. No further responses were received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on May 11, 2005.

With the present petition, petitioner has filed the petition fee, a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(b)(1). The amendment submitted on May 9, 2005 shall serve as the required submission.

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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.

As such, the petition is **GRANTED**.

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

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

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OFFICE OF PETITIONS

In re Application of :
BRAUCHLE et al. :
Application No. 09/984,339 : DECISION ON PETITION
Filed: 10/29/2001 :
Attorney Docket No. 1748X/50512 :

This is a decision on the petition under 37 CFR 1.314, filed January 2, 2008, to defer issuance of the patent. This is also a decision on the petition under 37 CFR 1.55(a)(2), filed February 12, 2008, for entry of priority papers submitted after the date the issue fee was paid.

The petitions are **GRANTED**.

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d).

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority or a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will, however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim nor include the priority information in the text of the patent. In such a situation, the patent will not contain the priority claim information. The patentee may request a certificate of correction and a determination of entitlement for such priority will be made after the patent is granted. *See* Federal Register/Vol. 65, No. 175, September 8, 2000, page 54622.

Since this matter is presently before the deciding official in the Office of Petitions, action on the petition under 37 CFR 1.55(a)(2) has been undertaken. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent,

petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.00.

Any questions concerning this decision should be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificate of Corrections Branch at (571) 272-4200.

Since the requested deferral period has now passed, this application will be referred to the Office of Patent Publications for processing into a patent.

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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CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application of :
Dow et al. :
Application No. 09/984,344 : ON PETITION
Filed: October 29, 2001 :
Attorney Docket No. 5569/71338 :

This is a decision on the "The petition to Withdraw Holding of Abandonment Based on the Failure to Receive Office Action, filed December 22, 2005. This petition is being treated under 37 CFR 1.181.

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

This application became abandoned for failure to timely submit a response to the Office Action mailed December 15, 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 was held abandoned on March 16, 2005. A Notice of Abandonment was mailed on September 20, 2005.

Petitioner asserts that the Office Action mailed on December 15, 2004 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the file jacket and docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of the file jacket and docket records have been provided.

Accordingly, the petition is **Granted**.

This application is being forwarded to Art Unit 2635 for re-mailing of the Office Action.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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SEP 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Christopher A. GREAMO, et al :
Application No. 09/984,346 : ON PETITION
Filed: October 29, 2001 :
Attorney Docket No. 5892-17 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 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 October 9, 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)(II)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 10, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received.

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 Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3623 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.

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09984346 Total Records Found: 10

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/13/2008	00005125	4	1201	$210.00	05/12/2008	DA 191970
05/13/2008	00005126	4	1453	$1,540.00	05/12/2008	DA 191970
05/13/2008	00005127	4	1801	$810.00	05/12/2008	DA 191970
07/19/2007	00009504	4	1201	$200.00	07/19/2007	DA 170055
07/19/2007	00009505	4	1251	$120.00	07/19/2007	DA 170055
04/02/2002	00000202	1	581	$40.00	03/27/2002	CK
03/28/2002	00000132	1	101	$740.00	03/27/2002	CK
03/28/2002	00000133	1	103	$576.00	03/27/2002	CK
03/28/2002	00000134	1	105	$130.00	03/27/2002	CK
03/28/2002	00000135	1	116	$400.00	03/27/2002	CK

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it 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) 5892-17

First named inventor: Christopher A. Greamo

Application No.: 09/984,346 Art Unit: 3623

Filed: October 29, 2001 Examiner: VAN DOREN, BETH

Title: SYSTEM AND METHOD FOR INVENTORY AND CAPACITY AVAILABILITY MANAGEMENT

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 $ 1540.00 (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 Amendment and Response (identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.
☒ is submitted herewith via EFS-Web

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

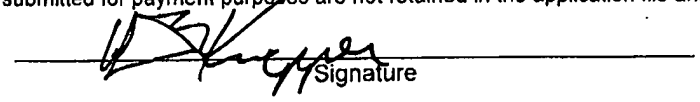
[X] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] 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

May 12, 2008
Date

Bradley M. Knepper
Typed or printed name

44,189
Registration Number, if applicable

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Address

(303) 863-9700
Telephone Number

Denver, Colorado 80202
Address

Enclosures: [X] Fee Payment via EFS-Web

[X] Reply

[ ] Terminal Disclaimer Form

[ ] Additional sheets containing statements establishing unintentional delay

[X] Other: Request for Continued Examination, Information Disclosure Statement

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.

05/12/08
Date

Leslie M. Frankel
Signature

[X] Submitted via EFS-Web

Leslie M. Frankel
Typed or printed name of person signing certificate

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (03/08)
Approved for use through 05/31/2008. OMB 0651-0031
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REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	09/984,346	Filing Date	2001-10-29	Docket Number (if applicable)	5892-17	Art Unit	3623
First Named Inventor	Christopher A. Greamo			Examiner Name	VAN DOREN, BETH		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☒ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

☒ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 191970

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/22/2010

Applicant	: Joseph A. Jenkins	: DECISION ON REQUEST FOR
Patent Number	: 7668761	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/984,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

JUL 11 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Drottar et al. :
Application No. 09/984,370 : DECISION ON REQUEST TO
Filed: October 30, 2001 : WITHDRAW AS ATTORNEY
For: PACKET FORMAT FOR A DISTRIBUTED SYSTEM :

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 9, 2003.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents associated with Customer Number 20,457 are granted the request for withdrawal. All other attorneys remain of record. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

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

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

cc: KENYON & KENYON
1500 K STREET, NW
SUITE 700
WASHINGTON, DC 20005-1257

UNITED STATES 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

COPY MAILED

SEP 0 9 2005

OFFICE OF PETITIONS

In re Patent No. 6,895,373	:	
Issue Date: May 17, 2005	:	
Application No. 09/984,374	:	ON PETITION
Filed: October 31, 2001	:	
Attorney Docket No. 215654US13CONT	:	

This is a decision on the petition under 37 CFR 1.182, filed June 13, 2005, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

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

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

This matter is being referred to Files Repository.

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

cc: Krystal Paige, South Tower C-32 (FAX 746-4642)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Hewlett-Packard Company
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of :
Gary A. Gibson :
Application No. 09/984,378 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. 10003495-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A final Office action was mailed to applicant on August 26, 2004, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on November 27, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, a Request for Continued Examination (RCE) under 37 CFR 1.114. Receipt of the RCE is acknowledged.

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

The application file is being referred to Technology Center 2600 for processing the RCE filed with the instant petition.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6466467	2002-10-15	09984417	2001-10-30	66721

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	/DJCushing/	Date (YYYY-MM-DD)	2007-02-07
Name	David J. Cushing	Registration Number	28703

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6466467
Issue Date: October 15,2002
Application No. 09984417
Filed: October 30,2001
Attorney Docket No. Q66721

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

This is a decision on the electronic petition, filed February 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/25/06

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 7026447

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

SPE

1652
Art Unit

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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,026,447
APPLICATION NO.	:	09/984,429
ISSUE DATE	:	April 11, 2006
INVENTOR(S)	:	Rosen et al.

OK to enter

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

In the Title:

On the cover page, delete the title "53 Human Secreted Proteins" and insert the amended title -- HAGDG59 Polypeptide -- ;

In the Claims:

In Claim 25, line 1, delete "The isolated protein of claim 28," and insert -- The isolated protein of claim 24, -- .

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Doyle A. Siever
HUMAN GENOME SCIENCES, INC.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850

UNITED STATES 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.

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

COPY MAILED

JUL 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Francisco Armario	:	
Application No. 09/984,448	:	DECISION ON
Filed: October 30, 2001	:	PETITION
Attorney Docket No. Q66882	:	

This is in response to the REQUEST FOR WITHDRAWAL OF ABANDONMENT filed April 13, 2006. Receipt of the letter entitled REQUEST FOR NEW OFFICE ACTION filed December 27, 2005 is acknowledged. In light of the paper filed April 13, 2006, both papers were recently forwarded to the undersigned for consideration.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed June 24, 2005. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR § 1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective September 25, 2005. A courtesy Notice of Abandonment was mailed on March 23, 2006.

In response, applicant filed the instant petition, asserting that the Office action as originally mailed on June 24, 2005 was never received and requesting that the holding of abandonment be withdrawn. (A copy of the Office action was forwarded to attorney for applicant on December 22, 2005).

A review of the application file reveals no irregularities in the mailing of the Office action mailed June 24, 2004. 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 the Office action, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence[1].

In view thereof, the notice of abandonment mailed March 23, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2662 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 non-final Office action mailed June 24, 2005 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

[1] Petitioner is reminded that in providing such information he is not precluded, with proper explanation, from redacting information relative to other pending applications.

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. 7

John F. Hayden
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

MAILED

SEP 0 2 2004

Technology Center 2100

In re Application of: Elgamal et al.
Application No.: 09/984,485
Filed: October 31, 2001
Attorney Docket No.: 06975-191002
For: CRYPTOGRAPHIC POLICY FILTERS AND POLICY CONTROL METHOD AND APPARATUS

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

This decision is in response to the petition to withdraw abandonment filed July 28, 2004. The communication is being treated as a petition to withdraw the holding of abandonment and to accept papers as timely filed under 37 CFR §1.8. The Notice of Abandonment was mailed July 12, 2004.

In support of the petition, petitioners have provided a statement along with a copy of the amendment filed March 31, 2004, fee authorization for extension of time and a return receipt post card.

A post card receipt serves as *prima facie* evidence of receipt in the USPTO. The evidence provided establishes that a timely response was, in fact, received on March 31, 2004. The Office failed to match the response to the application file.

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

The application will be forwarded to the Technical Support Staff for processing of petitioners' response to the Office action of December 1, 2003. Thereafter, the application will be forwarded to the examiner for consideration of applicants amendment.

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

OIPE
APR 27 2004
PATENT & TRADEMARK OFFICE
JC102

Smale

Pet. Dec.
1712

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Jochen Kerres *et al.*

Application No.: 09/984,488 Group Art Unit: 1712

Filed: October 30, 2001 Examiner: Patricia A. Short

For: STEP-BY-STEP ALKYLATION OF POLYMERIC AMINES Attorney Docket No.: 061121-0006

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
JUL - 6 2004

REQUEST UNDER 37 C.F.R. 10.40(c)
FOR WITHDRAWAL OF ATTORNEY

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

Sir:

It is hereby requested that the attorneys who have appeared in the above-identified patent application, and whose names appear below, be permitted to withdraw as attorneys in accordance with 37 C.F.R. §§ 1.36 and 10.40(c). It is respectfully requested that this Request be approved for the reasons stated herein.

As required, an original and two copies of this Request are being filed herewith.

The undersigned attorney has authorization and submits this Request on behalf of the following individuals:

Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), Thomas E. Friebel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Markey (Reg. No. 31636),

Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), Ann L. Gisolfi (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott B. Familant (Reg. No. 35514), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), Michael J. Lyons (Reg. No. 37386), Garland T. Stephens (Reg. No. 37242), William J. Sipio (Reg. No. 34514), Nikolaos C. George (Reg. No. 39201), Stephen S. Rabinowitz (Reg. No. 40286), Ognjan V. Shentov (Reg. No. 38051), and Kenneth L. Stein (Reg. No. 38704), all of Pennie & Edmonds LLP, whose addresses are 11 Avenue of the Americas, New York, NY 10036, 1667 K Street, N.W., Washington, D.C. 20006 and 3300 Hillview Avenue, Palo Alto, CA. 94304.

The present mailing address of each of the above-named individuals is:

Pennie & Edmonds LLP
1667 K Street, N.W.
Washington, D.C. 20006
(202) 496-4400

Please change the correspondence address for this application and direct all future correspondence to:

Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstrasse 72
71099 Stuttgart
Germany

REMARKS

The Commissioner usually requires that there be "at least thirty 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 C.F.R. § 1.136(a)." M.P.E.P. § 402.06. In the present application, an office action was mailed December 10, 2003.

On February 20, 2004, we were informed by our foreign associate, Henkel, Feiler & Hänzel ("Henkel"), that they have relinquished representation of this application with immediate effect. On February 23, 2004, we wrote a letter to Dr. Schön asking to provide us with an up to date address for Mr. Häring. We received a reply from Henkel providing us with a current address. On February 24, 2004, we wrote a letter to Mr. Häring

asking him to provide us with a billing address for future work to be done for him. On February 25, 2004, we received an e-mail from Mr. Nähring asking us to provide him with a fee schedule of Morgan, Lewis & Bockius, which we sent to him by e-mail on February 25, 2004 and a follow-up e-mail on March 16, 2004. On April 1, 2004, once again we have written to Mr. Häring asking him to provide us with a decision who is responsible for these files.

In view of the foregoing, the attorneys requesting withdrawal respectfully request approval of the present petition to withdraw at once.

The undersigned and the attorneys named herein are seeking permissive withdrawal under 37 C.F.R. § 10.40(c), for failure to provide us with information needed to continue representing Mr. Häring.

No fees is believed to be due in connection with filing of the instant request.

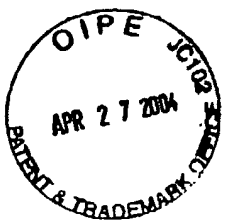
However, if a fee is due, please charge the required fee to Morgan, Lewis & Bockius, LLP Deposit Account No. 50-0310.

Respectfully submitted,

Date: April 27, 2004

Victor N. Balancia (Reg. No. 31,231)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel (202) 739-3000

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com



Morgan Lewis
COUNSELORS AT LAW

Victor N. Balancia
202-739-4416
vbalancia@morganlewis.com
eFax: 877.432.9652

April 1, 2004

VIA FACSIMILE AND MAIL
(011-49-711-641-2242)

Mr. Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstrasse 72
71099 Stuttgart
Germany

Re: Pending U.S. Patent Files
Client/Matter Nos. 061121-005, 006, 008, 009, and 010

Dear Mr. Häring:

We have been informed by Henkel, Feiler & Hänzel ("Henkel") that Henkel has withdrawn representation of your U.S. files. Mr. Nähring contacted us on February 25, 2004 requesting information on our fees. We have not received any further communication concerning further responsibility for these files.

In the meantime, we have received several actions from the U.S. Patent and Trademark Office, which have been forwarded to you. Since Henkel was responsible for payment of our invoices and has now withdrawn, please let us know as soon as possible who will be responsible for payment of such invoices. Since these matters are time sensitive, if we do not hear from you within ten (10) days of this letter, Morgan, Lewis & Bockius LLP will file requests withdraw as attorney of record and return the files to you.

Should you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,

Victor N. Balancia

Elizabeth Raufi
03/16/2004 03:59 PM

To: jnahring@genesysro.com
cc:
Subject: your e-mail dated 2/25/04 to Mr. Balancia - MLB-fee-schedule.PDF

Dear Mr. Naering

We still have not received a response from you whether Mr. Haering has made a decision regarding his files. Your prompt attention to this matter is appreciated. Thanks

Elizabeth Raufi
Legal Secretary
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. 202-739-5767
Fax. 202-739-3001
---- Forwarded by Elizabeth Raufi/WA/MLBLaw on 03/16/2004 03:51 PM ----

Elizabeth Raufi
02/25/2004 11:03 AM

To: jnahring@genesysro.com
cc: Victor N. Balancia/WA/MLBLaw@MorganLewis
Subject: your e-mail dated 2/25/04 to Mr. balancia - MLB-fee-schedule.PDF

Dear Dr. Naehring

Thank you for your email of 2/25/04 to Victor Balancia. Attached please find a fee schedule of Morgan Lewis listing our current charges of basic U.S. Patent and Trademark Office fees.

Christohper Hayden and David Welsberg primarily work on your applications. Their hourly rates are as follows:

Christopher Hayden $340.00/hour
David Weisber $235.00/hour

Should you require any further information, please do not hesitate to contact us.

Elizabeth Raufi
Legal Secretary
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. 202-739-5767
Fax. 202-739-3001

Your files are attached and ready to send with this message.

- MLB-fee-schedule.PDF

Elizabeth Raufi
02/25/2004 11:03 AM

To: jnahring@genesysro.com
cc: Victor N. Balancia/WA/MLBLaw@MorganLewis
Subject: your e-mail dated 2/25/04 to Mr. balancia - MLB-fee-schedule.PDF

Dear Dr. Naehring

Thank you for your email of 2/25/04 to Victor Balancia. Attached please find a fee schedule of Morgan Lewis listing our current charges of basic U.S. Patent and Trademark Office fees.

Christohper Hayden and David Weisberg primarily work on your applications. Their hourly rates are as follows:

Christopher Hayden $340.00/hour
David Weisber $235.00/hour

Should you require any further information, please do not hesitate to contact us.

Elizabeth Raufi
Legal Secretary
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. 202-739-5767
Fax. 202-739-3001

Your files are attached and ready to send with this message.

- MLB-fee-schedule.PDF

"Dr. Jens Nährlng" <jnahring@genesysro.com>

02/25/2004 08:39 AM

To: vbalancia@morganlewis.com
cc:
Subject: Your fax dated 24.02.2004

Dear Mr Balancia,
thank you for your friendly fax. Prior to confining these and other applications to your firm we need to know your fees. Please send us your schedule of fees. Mr. Häring is a small entity. Certainly we would be happy to continue if cost effectiveness and added value are ok.
Please us e-mail for communication if ever possible.
Correct Fax nummer is +49 711 641 2249.
Best regards
Dr. Jens Nähring on behalf of Thomas Häring

Thomas Häring
Feigenweg 15
70619 Stuttgart

Tel.+Fax: +49 - (0)711 641 2249
Tel.: +49 - (0)711 633 8650
E-mail: jnahring@genesysro.com

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com

Morgan Lewis
COUNSELORS AT LAW

Victor N. Balancia
202-739-4416
vbalancia@morganlewis.com
eFax: 877.432.9652

February 24, 2004
VIA FACSIMILE

Mr. Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstr. 72
71099 Stuttgart
Germany

Re: U.S. Patent Files
Client/Matter No. 061121

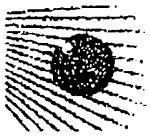
Dear Mr. Häring:

We have just learned that Henkel Feiler & Hänzel is no longer representing you with regard to your pending U.S. patent applications. Since our invoices were being sent to Henkel Feiler & Hänzel, please provide us with a new billing address as soon as possible. We will be unable to proceed with your representation until we have established by whom invoices are to be paid.

Should you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,

Victor N. Balancia



Elizabeth Raufi
02/24/2004 09:30 AM

To: David M. Welsberg/WA/MLBLaw@MorganLewis, Deborah Schultz/WA/MLBLaw@MorganLewis
cc:
Subject: U.S. Application Nos. 09/984,531; 09/984,488 and 10/173,830 / Thomas Häring

Copy for the file

Elizabeth Raufi
Legal Secretary
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. 202-739-5767
Fax. 202-739-3001
—— Forwarded by Elizabeth Raufi/WA/MLBLaw on 02/24/2004 09:30 AM ——

Victor N. Balancia
02/24/2004 08:14 AM

To: Elizabeth Raufi/WA/MLBLaw@MorganLewis
cc:
Subject: U.S. Application Nos. 09/984,531; 09/984,488 and 10/173,830 / Thomas Häring

Victor N. Balancia
Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Direct Dial: 202.739.4416
eFax: 202.739.3001
eMail: vbalancia@morganlewis.com

—— Forwarded by Victor N. Balancia/WA/MLBLaw on 02/24/2004 08:14 AM ——

"Anne Kraus" <ajk@henkelpatent.de >
02/24/2004 04:00 AM

To: vbalancia@morganlewis.com
cc:
Subject: U.S. Application Nos. 09/984,531; 09/984,488 and 10/173,830 / Thomas Häring

Dear Mr. Balancia,

Thank you for your telefax of February 23, 2004.

As requested Mr. Häring's details are as listed below:

Herrn Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstr. 72
71099 Stuttgart
Germany

Tel: +49-711-641-2249
Fax: +49-711-641-2242

Home Telno.: +49-711-476 49 18

We trust this will help you further. Should you require any other information, please let us know.

Yours truly,
Ann Kraus
for Dr. Chr. Schön
Henkel, Feiler & Hänzel

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com

Morgan Lewis
COUNSELORS AT LAW

Victor N. Balancia
Partner
202-739-4416
vbalancia@morganlewis.com

February 23, 2004
Via Facsimile

Our Ref.: 061121-0000

Dr. Ch. Schön
Henkel Feiler & Hänzel
Möhlstrasse 37
d-81675 München
Germany

Re: U.S. Application Nos. 09/984,531; 09/984,488 and 10/173,830 to Thomas Häring

Dear Dr. Schön:

Thank you for your facsimiles of February 20, 2004 regarding your withdrawal from representing Mr. Thomas Häring. Please provide us with his current contact information including a current mailing address.

Your prompt attention to this matter is appreciated. We look forward to continue working with you on other matters.

Very truly yours,

Victor N. Balancia

cc: Christopher G. Hayden, Esq.
Mr. David Weisberg

VNB
CGH

Henkel, Feiler & Hänzel

Patentanwälte

European Patent Attorneys
European Trade Mark Attorneys
Zugelassene Vertreter vor dem
Europäischen Patentamt
und dem Harmonisierungsamt

Dr. phil. G. Henkel †
Dr. rer. nat. L. Feiler
Dipl.-Ing. W. Hänzel
Dipl.-Ing. M. Garkisch
Dr. rer. nat. Chr. Schön
Dr. rer. nat. E. Wenning

Möhlstraße 37
D-81675 München

Telefon: +49-89-98 20 85
Telefax: +49-89-98 14 26 (G3)
+49-89-98 105 995 (G3/4)
E-mail: mail@henkelpatent.de

February 20, 2004

Confirmation Copy

Morgan, Lewis & Bockius LLP
Attn: Mr. David M. Weisberg
1111 Pennsylvania Avenue, NW
Washington, DC 2004

U.S.A.

VIA FACSIMILE - PAGES SENT: 1

U.S. Patent Application No. 09/984,488
HÄRING, THOMAS
Your Ref.: 10869-006
Our Ref.: 11971/CH/ajk

6\1\21-0006

Dear Mr. Weisberg,

We have to inform you that we have relinquished representation of this application with immediate effect.

Please address all future correspondence to Mr. Häring direct.

We should like to thank you for working together with us on this file and look forward to working with you again in the future.

Please confirm receipt of this letter by fax as soon as possible.

Very truly yours,

Dr. Ch. Schön
Patent Attorney

RECEIVED
FEB 24 2004
MORGAN, LEWIS & BOCKIUS LLP

PREVIOUSLY DOCKETED

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JAN 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

DAVID MUZILLA
HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-1076

In re Application of: Schmitt, et al.
Application No. 09/984,499
Filed: October 30, 2001
For: SYSTEMS AND METHODS FOR CONNECTING VIDEO CONFERENCING TO A DISTRIBUTED NETWORK

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on October 12, 2004.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. 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 is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition, have not been listed on an attached PTO form 1449 or SB/08. To ensure proper consideration, a listing of these references should be provided.

With respect to section (b) above, the petition filed October 12, 2004 fails to identify that an election will be made without traverse if the Office determines that all of the claims presented are not obviously directed to a single invention. However, in telephone communications with applicant's attorney, David Muzilla (Reg. No. 50914) on January 6, 2005, an oral agreement was reached such that applicant has indicated that an election will be made without traverse if a requirement for restriction is made on the part of the USPTO.

As Petitioner's submission filed October 12, 2004 and the oral agreement on January 6, 2005 meet the criteria set forth above, the petition to Make Special is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

BLJ: 1/6/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

COPY MAILED

DEC 0 3 2008

OFFICE OF PETITIONS

In re Application of :
Matthew R. SCHMITT, et al :
Application No. 09/984,499 : DECISION ON PETITION
Filed: October 30, 2001 : TO WITHDRAW
Attorney Docket No. 2005966-0000 : 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 31, 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by John D. Lanza on behalf of all the attorneys of record associated with Customer No. 24280.

All the attorneys of record associated with Customer No. 24280 have been withdrawn.

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

The request to change the correspondence address 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 signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MATTHEW R. SCHMITT
448 WEST 4TH AVENUE
COLUMBUS, OH 43201

cc: GULFSTREAM MEDIA CORPORATION
99 HAYDEN AVENUE
LEXINGTON, MA 02421

OIPE
APR 27 2004
PATENT & TRADEMARK OFFICE

Group 1751

1751

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Jochen Kerres *et al.*

Application No.: 09/984,531 Group Art Unit: 1751

Filed: October 30, 2001 Examiner: Vijayakumar Kallambella M

For: PROTON-CONDUCTING CERAMIC/
POLYMER COMPOSITE MEMBRANE
FOR THE TEMPERATURE RANGE
UP TO 300 C Attorney Docket No.: 061121-0005

REQUEST UNDER 37 C.F.R. 10.40(c)
FOR WITHDRAWAL OF ATTORNEY

AUG 30 2004

Approved
Jacqueline M. Stone, Director
Technology Center 1700

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

Sir:

It is hereby requested that the attorneys who have appeared in the above-identified patent application, and whose names appear below, be permitted to withdraw as attorneys in accordance with 37 C.F.R. §§ 1.36 and 10.40(c). It is respectfully requested that this Request be approved for the reasons stated herein.

As required, an original and two copies of this Request are being filed herewith.

The undersigned attorney has authorization and submits this Request on behalf of the following individuals:

Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), Thomas E. Friebel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond

R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Markey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), Ann L. Gisolfi (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott B. Familant (Reg. No. 35514), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), Michael J. Lyons (Reg. No. 37386), Garland T. Stephens (Reg. No. 37242), William J. Sipio (Reg. No. 34514), Nikolaos C. George (Reg. No. 39201), Stephen S. Rabinowitz (Reg. No. 40286), Ognjan V. Shentov (Reg. No. 38051), and Kenneth L. Stein (Reg. No. 38704), all of Pennie & Edmonds LLP, whose addresses are 11 Avenue of the Americas, New York, NY 10036, 1667 K Street, N.W., Washington, D.C. 20006 and 3300 Hillview Avenue, Palo Alto, CA. 94304.

The present mailing address of each of the above-named individuals is:

Pennie & Edmonds LLP
1667 K Street, N.W.
Washington, D.C. 20006
(202) 496-4400

Please change the correspondence address for this application and direct all future correspondence to:

Thomas Häring
c/o Universität Stuttgart
Institut für Chemische Verfahrenstechnik
Böblingerstrasse 72
71099 Stuttgart
Germany

REMARKS

The Commissioner usually requires that there be "at least thirty 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 C.F.R. § 1.136(a)." M.P.E.P. § 402.06. In the present application, an office action was mailed January 30, 2004.

On February 20, 2004, we were informed by our foreign associate, Henkel, Feiler & Hänzel ("Henkel"), that they have relinquished representation of this application with immediate effect. On February 23, 2004, we wrote a letter to Dr. Schön asking to

provide us with an up to date address for Mr. Häring. We received a reply from Henkel providing us with a current address. On March 24, 2004, we wrote a letter to Mr. Häring asking him to provide us with a billing address for future work to be done for him. On February 25, 2004, we received an e-mail from Mr. Nähring asking us to provide him with a fee schedule of Morgan, Lewis & Bockius, which we sent to him by e-mail on February 25, 2004 and a follow-up e-mail on March 16, 2004. On April 1, 2004, once again we have written to Mr. Häring asking him to provide us with a decision who is responsible for these files.

In view of the foregoing, the attorneys requesting withdrawal respectfully request approval of the present petition to withdraw at once.

The undersigned and the attorneys named herein are seeking permissive withdrawal under 37 C.F.R. § 10.40(c), for failure to provide us with information needed to continue representing Mr. Häring.

No fees is believed to be due in connection with filing of the instant request.

However, if a fee is due, please charge the required fee to Morgan, Lewis & Bockius, LLP Deposit Account No. 50-0310.

Respectfully submitted,

Date: April 27, 2004

Victor N. Balancia (Reg. No. 31,231)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel (202) 739-3000

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

AUG 1 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of	:	
Soto et al.	:	
Application No. 09/984,536	:	DECISION ON REQUEST TO
Filed: October 30, 2001	:	WITHDRAW AS ATTORNEY
For: **METHOD AND APPARATUS FOR ADJUSTING PRINT SETTINGS FOR A FILE**	:	

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

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

The attorney/agent signing the request, John W. Ryan, is not of record. Furthermore, the Request fails to meet requirement (4).

Accordingly, the request is **DENIED**.

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

Reinhold J. Ernst
For Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUN MICROSYSTEMS/FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

JUL 03 2007

OFFICE OF PETITIONS

In re Patent No. 7,062,573	:	
Bruce Tognazzini	:	DECISION ON REQUEST FOR
Issue Date: June 13, 2006	:	RECONSIDERATION OF PATENT
Application No. 09/984,549	:	TERM ADJUSTMENT AND
Filed: October 30, 2001	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 50253-288	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed April 26, 2005. Patentee requests that the initial patent term adjustment be corrected from zero (0) days to six hundred five (605) days.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **eight hundred seventy-eight (878) days.**

On January 27, 2005, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, indicating that the patent term adjustment as of the mailing date was zero (0) days. In response, on April 26, 2005, patentee timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 CFR 1.18(e). On June 13, 2006,

[1] PALM Records indicate that the Issue Fee payment was received on April 26, 2005.

Application No. 09/984,549 matured into Patent No. 7,062,573. The patent issued with a revised Patent Term Adjustment of 532 days.

Patentee requests that the initial patent term adjustment be corrected to 605 days. Patentee asserts that the Office's delay pursuant to 37 CFR 1.702(e) and 1.703(e) should be calculated as 660 days. Further, patentee contends that the reduction pursuant to 37 CFR 1.704(b) should be calculated as 55 days. Specifically, patentee asserts that a notice of appeal and request for an extension of time for response within the second month were filed on February 10, 2003, in response to a final Office action mailed on September 17, 2002. On November 30, 2004, the Board of Patent Appeals and Interferences issued a final decision in favor of the applicant.

The application history has been reviewed and it has been determined that the patent term adjustment is incorrect.[2] PALM records indicate that the Office received the notice appeal on February 19, 2003, not February 10, 2003. Patentee is reminded that the actual date of receipt of the correspondence in the Office, as set forth in 37 CFR 1.6, will be the date used in a patent term adjustment calculation. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

Pursuant to 37 CFR 1.703(e), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the number of days in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and 37 CFR 41.31, February 19, 2003, and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences, November 30, 2004. Therefore, the period of adjustment pursuant to §§ 1.702(e) and 1.703(e) is 651 days.

However, patentee failed to engage in reasonable efforts within the meaning of § 1.704(b). The Office should have calculated the period using the date of receipt of the notice of appeal,

---

[2] It is undisputed that the period of adjustment pursuant to § 1.702(a)(4) is 291 days.

February 19, 2003. Thus, the period of reduction is 64 days (not the 59 days of record or the 55 days asserted by patentee), the number of days in the period beginning on the day after the date that is three months after the mailing of the final Office action, December 18, 2002, and ending on the date the notice of appeal was filed, February 19, 2003.

It is further noted that given entry of the period of adjustment of 651 days pursuant to §§ 1.702(e) and 1.703(e), the entry of a period of adjustment of 300 days pursuant to § 1.702(b) is not warranted. It is noted that the instant patent issued 3 years and 591 days after its filing date. However, 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. Further, in considering the overlap, 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). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 591 days attributable to the delay in the issuance of the patent overlaps with the adjustments totalling of 942 days attributable to grounds specified in § 1.702(a)(4) and 1.702(e). Thus, no additional period of adjustment beyond the 942 days is being entered. Moreover, the previously entered 300 days is being removed[3].

In view thereof, the patent term adjustment indicated on the patent should be **878 days** (942 days of Office delay - 64 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.

This matter is being referred 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

[3] As originally only 291 days were entered for Office delay prior to issuance of the patent, an additional period of 300 days was entered to reach the total of 591 days. In other words, previously only 291 days overlapped.

correction indicating that the term of the above-identified patent is extended or adjusted by EIGHT HUNDRED SEVENTY-EIGHT (878) days.

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 DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,062,573 B2

DATED : Jun. 13, 2006

INVENTOR(S) : Tognazzini

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 (878) days

Delete the phrase "by 532 days" and insert – by 878 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

COPY MAILED

OCT 1 0 2002

OFFICE OF PETITIONS

Applicant: Dupuis et al.
Appl. No.: 09/984,552
Filing Date: October 30, 2001
Title: COSMETIC COMPOSITION WHICH PROVIDES GOOD HOLD PROPERTIES AND WHICH COMPRISES A COPOLYMER WITH AN ACID UNIT
Attorney Docket No.: 05725.0969-00
Pub. No.: US 2002/0086040 A1
Pub. Date: July 4, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on September 4, 2002.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains two misspelling that may affect the public's ability to appreciate the technical disclosure of the patent application publication or affect the scope of the provisional rights.

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 instant request identifies two minor typographical errors such as the misspelling of "150%($_{max}$)" for "150%(ε_{max})" and "Instantaneous recovery R_1" for "Instantaneous recovery R_i", which are not material mistakes because the technical disclosure and the claims are understandable.

The typographical errors identified by applicant are Office mistakes, but they are not material mistakes as required by 37 CFR 1.221(b). A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The misspelling of "150%($_{max}$)" for "150%(ε_{max})" and "Instantaneous recovery R_1" for "Instantaneous recovery R_i" are minor typographical errors which are clearly understandable from reading the sentence and/or paragraph in which the terms are used, as the terms are not read in a vacuum. With respect to "Instantaneous recovery", the term and its symbol are defined in the

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63, 75 (Oct. 10, 2000) (final rule).

specification. The mistakes 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.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
Commissioner for Patents
Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DRW 05-02

Paper No. 5

ALFRED A. STADNICKI
FIFTH FLOOR
1146 NINETEENTH STREET, NW
WASHINGTON DC 20036

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JUN 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Kight et al. :
Application No. 09/984,568 : ON PETITION
Filed: 30 October, 2001 :
Attorney's Docket No. 3350-89 A :

This is a decision on the petition filed on 15 January, 2002, requesting that the above-identified application be accorded a filing date of 30 October, 2001, with Pages 53, 54, 55, 62, and 63 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 30 October, 2001. However, on 21 November, 2001, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers stating, *inter alia*, that the application had been accorded a filing date but that Pages 53, 54, 55, 62, and 63 of the specification (description and claims) appeared to have been omitted.

In response, on 15 January, 2002, Pages 53, 54, 55, 62, and 63 of the specification, and the present petition were filed. Petitioners argue that Pages 53, 54, 55, 62, and 63 were filed with the other application papers on 30 October, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' two postcard receipts were supplied with the present petition. The postcard receipts both show an Office date stamp of 30 October, 2001, and one postcard also has been annotated with the above-identified application number. The postcard receipts identify the application by the first named inventor's last name and invention title, and acknowledges receipt of, *inter alia*, "93 pgs. of specification claims and abstract". Petitioners request that the application, including Pages 53, 54, 55, 62, and 63 of the specification, be accorded a filing date of 30 October, 2001.

A review of the record reveals that no Pages 53, 54, 55, 62, and 63 of the specification have been located among the application papers deposited on 30 October, 2001. However, the evidence is convincing that the application papers deposited on 30 October, 2001, included Pages 53, 54, 55, 62, and 63 of the specification, which were subsequently misplaced in the Office. Therefore, the application, including Pages 53, 54, 55, 62, and 63 of the specification, is entitled to a filing date of 30 October, 2001.

The "Notice" mailed on 21 November, 2001, is vacated to the extent that it stated that Pages 53, 54, 55, 62, and 63 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of $130.00 will be credited to counsel's deposit account, No. 12-0429.

The application will be processed and examined using the copies of Pages 53, 54, 55, 62, and 63 supplied on 15 January, 2002.

Receipt is acknowledged of the substitute drawings filed in response to the Notice mailed on 21 November, 2001

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 30 October, 2001, using the application papers filed on 30 October, 2001, and the copies of Pages 53, 54, 55, 62, and 63 supplied on 15 January, 2002.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

D Wood

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

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JUN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Kight, et. al.	:	DECISION ON REQUEST
Application No. 09/984,568	:	TO WITHDRAW FROM
Filed: October 31, 2001	:	RECORD
Attorney Docket No. 3350-89 A	:	

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on June 27, 2005.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: SUTHERLAND ASBILL & BRENNAN, LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of

Goto, et al. :

Application No. 09/984,581

: DECISION ON PETITION

Filed: October 30, 2001

:

Attorney Docket No. 101175-00019

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 31, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 1, 2005. A Notice of Abandonment was mailed on October 11, 2005.

The amendment filed November 4, 2005, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1745 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

P17550

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 18

GREENBLUM & BERNSTEIN, P.L.C.
1941 ROLAND CLARKE PLACE
RESTON, VA 20191

COPY MAILED

JAN 22 2002

OFFICE OF PETITIONS

RECEIVED

FEB 13 2002

OFFICE OF PETITIONS

In re Application of
Tien-Feng Ling et al.
Application No. 09/333,891
Filed: June 16, 1999
Attorney Docket No. P17550.A16

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed November 30, 2001, to change the order of the names of the inventors.

The petition is granted.

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

This file is being forwarded to Publishing Division.

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (703) 306-5684.

Karen Crouch for

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

Attachment: Corrected Filing Receipt

RECEIVED

JAN 25 2002

GREENBLUM & BERNSTEIN, P.L.C.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

GREENBLUM & BERNSTEIN, P.L.C.
1941 ROLAND CLARKE PLACE
RESTON, VA 20191

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Ling, et al.
Application No. 09/984,596
Filed: October 30, 2001
Attorney Docket No. P21571

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed February 13, 2002, to change the order of the names of the inventors in the above-identified application.

The petition is granted.

The order of the names of the inventors has been changed as follows:

1. Tien-Feng Ling
2. Duy T. Nguyen
3. Xiang H. Wang
4. Mitzi K. Fader
5. Fushan Zhang

Please find enclosed a corrected filing receipt.

This application is being returned to Technology Center 1744 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209-3873

MAILED

NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of:	)	
Hans Daniel DREYER, et al.	)	
Application No. 09/984,636	)	
Filed: October 30, 2001	)	**DECISION ON REQUEST FOR**
For: MULTIPLE MODE INPUT AND OUTPUT	)	**WITHDRAWAL AS ATTORNEY**
	)	

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed June 30, 2005.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on July 20, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Sutherland, Asbill & Brennan LLP as the attorneys of record of the instant application. The Power Of Attorney of July 20, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Sutherland, Asbill & Brennan 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, Software, and
Information Security
571-272-3613

cc: Sutherland, Asbill & Brennan LLP
999 Peachtree Street, N.E
Atlanta, GA 30309

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)
6704920	2004-03-09	09/984,640	2001-10-30	BRILL = 1

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	/David Klein/	Date (YYYY-MM-DD)	2008-07-22
Name	David Klein	Registration Number	41118

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6704920
Issue Date: March 9,2004
Application No. 09984640
Filed: October 30,2001
Attorney Docket No. BRILL= 1

:

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

:

This is a decision on the electronic petition, filed July 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 09/984,642
Filed: October 30, 2001
Attorney Docket No. 82001-0316

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed on July 1, 2002 (Monday), requesting that 4 inventors be allowed to file the application on behalf of themselves and the remaining joint-inventor who allegedly refuses to join in this application.

The petition is **DISMISSED.**

There are 5 inventors named for the claimed invention in this application. The allegedly non-signing inventor is Jeff Horak ("Horak"). The application as filed on October 30, 2001 included a "Combined Declaration for Patent Application and Power of Attorney" signed by all except Horak ("10/30/01 Declaration"). A Notice to File Missing Parts of Nonprovisional Application was mailed by the Office of Initial Patent Examination (OIPE) on November 29, 2001, giving Applicants an extendable 2-month period to submit, *inter alia,* an oath/declaration signed by all inventors.[1] The instant petition then followed,[2] asserting that Horak has refused to join in this application, and requesting that the 10/30/01 Declaration be accepted such that the signing inventors may make this application on behalf of themselves as well as Horak.

The signing inventors may file this application on behalf of themselves and Horak, provided that a *bona fide* attempt has been made to present to Horak, for signature, a copy of the **entire application (specification including claims; drawings)**;[3] and that the latter refuses to join in this application. To show that Horak has refused to join in this application despite such a *bona fide* attempt, the petition must include, *inter alia*, a **statement of facts** concerning the

---

[1] 37 CFR 1.51(b)(2), 1.63. Also missing were the application basic filing fee and extra claims fees.

[2] Including a request for a 5-month extension of time and the requisite extension-of-time fee.

[3] MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN (A refusal by an inventor to sign an oath/declaration when . . . not . . . presented with the application papers does not itself suggest that the inventor is refusing to join in the application unless it is clear that the inventor understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956) (It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath/declaration is directed.).

circumstances of the presentation of the application papers to Horak at his last known address,[5] and his subsequent refusal.[6]

The petition encloses a declaration by David D. Nelson ("Nelson") ("Nelson Declaration"), counsel for Manugistics Atlanta, Inc. ("Manugistics"), apparently the successor-in-interest to Horak's former employer. The pertinent parts of the Nelson Declaration set forth that:

5/29/02:	Horak was e-mailed a "Joint Declaration and Power of Attorney document";[7]
5/29/02-6/25/02:	Horak was contacted on numerous occasions "to arrange [for] delivery of the patent application . . . ";[8]
6/25/02:	Horak met with "an official of Manugistics" and "was provided with a copy of the . . . application. Horak reviewed the . . . application but refused to sign . . .."[9]

The Office notes the following:

-A copy of the entire application (specification including claims; drawings) was never sent to Horak's last known address even though that address had been **verified**.[10]

-This application is complex, in that, it contains 50 pages of specification (including 30 claims and 70 equations) and 11 sheets of drawings. If Horak received on 6/25/02, for the first time, an entire copy of the application papers, it would have been **unreasonable** if not intimidating to ask him to review and sign the application papers in the presence of a Manugistics representative. By the same token, even if assuming Horak was given a copy of the entire application to take for review after the 6/25/02 meeting, the alleged lack of response from Horak by July 1, 2002, less than a week later, hardly can be construed as his refusal to join in this application.

Consequently, the Office is unable to conclude that the Nelson Statement constitutes the "statement of facts" required for granting a petition under 37 CFR 1.47(a). The petition is thus dismissed and the 10/30/01 Declaration is not accepted.

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5 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

6 See MPEP section 409.03(d) (Aug. 2001).

7 Nelson Declaration, page 2, paragraph 6.

8 Nelson Declaration, page 3, paragraph 7.

9 Nelson Declaration, page 3, paragraph 8.

10 Nelson Declaration, page 2, paragraph 4.

To prevent abandonment of this application,[11] an oath or declaration signed by all the inventors including Horak,[12] **or**, a renewed petition under 37 CFR 1.47(a) (no fee), must be submitted within **TWO (2) MONTHS** from the mailing date of this decision, unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained.

The renewed petition under 37 CFR 1.47(a):

-must include appropriate **statement(s) of facts**, establishing that a ***bona fide*** **attempt** has been made to present to Horak for signature, at his **last known address,** a copy of the **entire** application (specification including claims; drawings); and of the **facts** relied upon to conclude that Horak has refused to join in this application;[13]

-should be addressed as follows:

by mail and by hand: Assistant Commissioner for Patents
USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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

As authorized, the $130 petition fee, the $740 basic filing fee, the $180 extra claims fees, and the $130 surcharge for late filing of the basic filing fee have been charged to Deposit Account No. 50-1349.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

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

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[11] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration . . . pursuant to §1.63 . . . , applicant will be notified and given a period of time . . . to . . . file an oath or declaration . . . **to avoid abandonment**.).

[12] **Submit directly to OIPE along with a copy of this decision.**

[13] The statement(s) of facts must be signed by **those who presented the application/made the stated contacts/concluded that Horak has refused to join in/to whom the refusal to join in was made.**

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

HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

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DEC 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 09/984,642 : LETTER
Filed: October 30, 2001 :
Attorney Docket No. 82001-0316 :

On July 1, 2002, a petition under 37 CFR 1.47(a) was filed for the above-identified application, requesting that 4 inventors be allowed to file the application on behalf of themselves and the alleged non-signing co-inventor, Jeff Horak ("Horak"). That petition was dismissed on September 16, 2002 for failing to show that a *bona fide* attempt had been made to present to Horak, for review and signature, an entire copy of the application papers.

A "Response to Decision on Petition under 37 CFR 1.47(a)" was filed on December 17, 2002 ("12/17/02 Declaration") along with a request for a 2-month extension of time and the requisite extension-of-time fee. Enclosed therein is a "Combined Declaration for Patent Application and Power of Attorney," executed by all the inventors, including Horak, for the claimed invention in this application. The application is now complete.

No fee is owed.

In addition, receipt on October 17, 2002 of an Information Disclosure Statement is acknowledged.

The application file is being returned to the Office of Initial Patent Examination for processing of the 12/17/02 Declaration and for issuance of a filing receipt if one has not yet been mailed. Thereafter, the file will be forwarded to the appropriate Technology Center for examination in due course.

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

RC Tang
Petitions Attorney
Office of Petitions
Office of the Commissioner
for Patents

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTOR'S OFFICE
JUL 03 2006
TECHNOLOGY CENTER 3600

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

McGuirewoods, LLP
1750 Tysons Blvd.
Suite 1800
McLean, VA 22102

In re Application of :
Glen Klassen : DECISION ON PETITION
Application No. 09/984,668 : UNDER 37 CFR §1.181
Filed: October 30, 2001 :
For: Temporary Bracing System For Insulated Wall Form and Method

This is a decision on applicant's Petition filed under 37 CFR 1.181(a) for Supervisory Review, filed March 13, 2006.

The petition is **DISMISSED as MOOT**.

The instant petition was filed in response to an Office action mailed January 13, 2006. Applicant alleges that this application has received piecemeal handling with over four years of prosecution and five non-final Office actions.

Subsequent to the filing of this petition, the examiner and applicant's representative reached an agreement on allowable subject matter in the claims and a notice of allowance was mailed on June 5, 2006.

Therefore no further relief in regard to supervisory review of prosecution is required and the petition is deemed **DISMISSED as MOOT**.

Any question regarding this decision should be directed to Carl Friedman at (571) 272-6482

Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

CF/sm: 06/27/06

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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REED SMITH HAZEL & THOMAS LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

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MAR 21 2005

OFFICE OF PETITIONS

In re Application of :
May Suzuki et al :
Application No. 09/984,675 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. HITA.0115 :

This is a decision on the petition, filed March 15, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2188 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
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YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

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NOV 0 8 2004

OFFICE OF PETITIONS

In re Application of
Philipp Engesser
Application No. 09/984,707
Filed: October 31, 2001
Attorney Docket Number: S84-5oo4-pUS

: NOTICE

This is a notice regarding your request filed on October 27, 2004, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

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." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

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

This file is being forwarded to Technology Center 1700.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 11-2-06

Patent No.: 6,780,314
Patent Issued : August 24, 2004
Inventor(s) Kiyokatsu Jinno, et. al.
Title: SEPARATION COLUMN FOR CHROMATOGRAPHY, MEDIUN FOR SOLID PHASE EXTRACTION AND SAMPLE INJECTIONSYSTEM FOR CHAROMATOGRAPHY
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 1.322.

The attorney has indicated via phone that several errors were made on his behalf. He would prefer this document not be entered.

In view of the foregoing, your request in this matter is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Stefan U. Koschmieder
Oblon, Spivak, McClelland, Maier & Neustadt,
Norman F. Oblon
1940 Duke Street
Alexandria, VA 22314

ej

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JUN 24 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of
AVERBUCH, AMIR, et al :
Serial No.: **09/984757** :
Filed: October 31, 2001 : DECISION ON PETITION
For: **AUTOMATIC OBJECT EXTRACTION** :

This is a decision on the petition under 37 C.F.R. § 1.84(b)(2), filed, January 19, 2005, requesting acceptance of color drawings.

The petition requests that the colore drawings identified in figures 3a, 3b, 3c, 3d, 3e, 3f, 3g, 4a, 4b, 4c, 4d, 4e, and 4f be accepted in lieu of black and white drawings.

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

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

The petition was filed with one set of the color drawings in question.

The petition is **DENIED.**

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

for:

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
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Martin D. Moynihan
PRTSI, Inc.
P. O. Box 16446
Arlington VA 22215

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DEC 19 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
AVERBUCH, AMIR, et al : DECISION ON PETITION
Serial No.: **09/984,757** : *ACCEPTANCE OF COLOR DRAWINGS*
Filed: October 31, 2001 :
For: **AUTOMATIC OBJECT EXTRACTION** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2) January 19, 2005 and resubmitted on August 24, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in Figures 3(a), 3(b), 3(c), 3(d), 3(e), 3(f), 3(g), 4(a), 4(b), 4(c), 4(d), 4(e), and 4(f), be accepted in lieu of black and white drawings.

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

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

The application file is being forwarded to the Technical Support Staff for entry of the proposed amendment filed with this petition.

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

2350-92
1355

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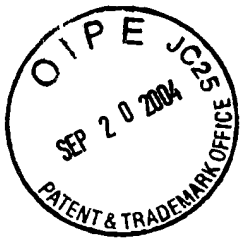

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8th Floor
1100 North Glebe Road
Arlington, VA 22201-4714

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OFFICE OF PETITIONS

In re Application of
Jean Michel Bernardon, et al.
Application No. 09/984,830
Filed: October 31, 2001
Attorney Docket No. 2350-92

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 17, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 20, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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 1625 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/984,861	10/31/2001	Phillip G. Norton	TPP31342A	2755

33942 7590 05/02/2008

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER	
BUCHANAN, CHRISTOPHER R	
ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
05/02/2008	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

MAY 0 2 2008

TECHNOLOGY CENTER 3600

Stephen Gigante
CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

In re Application of
Philip G. NORTON

ON PETITION to INVOKE SUPERVISORY AUTHORITY OF THE DIRECTOR UNDER 37 C.F.R. 1.181

Appl. No. 09/984,861
Filed: October 31, 2001
For: **Hosted Asset Procurement System and Method**

This is a decision on applicant's petition under 37 CFR 1.181 received on March 5, 2007 requesting withdrawal of the Office action made on 2/9/2007 and having the Examiner provide an Examiner's Answer with new grounds of rejection, as appropriate, if permitted by the Director.

The Petition is **DENIED.**

The petitioner argues that the grounds of rejection in the Office action of February 9, 2007 have the same basic thrust (virtually identical) to the rejections made in the Final Office action of November 17, 2005. Therefore, the SPE erred in granting approval with regard to MPEP 1207.04 to re-open prosecution upon virtually identical grounds and the petitioner cites *In re Kronig* for support. *The petitioner further argues that if the SPE believed that there truly was a new ground of rejection, he would have had to seek the Group Director's authorization citing MPEP 1207.04.*

In reviewing the case history, the Examiner reopened prosecution on 2/9/2007 after an Appeal Brief with grounds of rejection that were similar but not identical to rejections made in previous Office actions. For example, claims 1-15 were rejected under 35 U.S.C. 103 using King, Jr. alone whereby the rationale in support of the rejection was significantly different than in any previous Office action. Paragraph 2 of page 4 of the Office action mailed 2/9/2007 specifically relies on the teachings described in King, Jr. that "the private catalogs allow customers to control or limit products, services, and suppliers and to pre-approve suppliers". In view of this specific and significant teaching relied upon by the Examiner in his Office action

mailed 2/9/2007 and not specifically relied upon in any previous Office action, the claim rejections were not of the same basic thrust and reopening of prosecution after Appeal Brief was proper. *Further, reopening of prosecution after an Appeal Brief only requires supervisory approval, which the Examiner did have. Director approval, argued by the petitioner and citing MPEP 1207.04, is only required when a new ground of rejection is presented in an Examiner's Answer.*

The petitioner further argues that the finality of the Office action mailed 2/9/2007 was improper. MPEP 1207.04 states that an Office action reopening prosecution after Appeal can be made final if the new ground of rejection was (A) necessitated by amendment, or (B) based on information presented in an IDS.

Since the applicant did not submit any amendments or IDSs that had not already been considered in a previous Office action, the finality of the Office action mailed 2/9/2007 was not necessitated by amendment or IDS and therefore was improper.

Although the petitioner is not specifically seeking relief from the finality of the Office action mailed 2/9/2007, the Office, in response to the petitioner's arguments, will withdraw finality and make the action non-final.

The applicant filed a second Appeal Brief on 1/11/2008 in response to the Office action mailed 2/9/2007. The Examiner wrote an Examiner's Answer on 2/22/2008. The application will be returned to the Examiner in order to amend section (4) to reflect this decision to withdraw finality of the 2/9/2007 Office action. Upon amending section (4) in a Supplemental Examiner's Answer, the application will be forwarded to the Board.

SUMMARY: The Petition is **DENIED** with respect to the withdrawal of the Office action mailed 2/9/2007, however, the finality of the Office action has been withdrawn.

Any questions regarding this decision should be directed to F. Ryan Zeender at (571) 272-6790.

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

FZ/SNM 4/20/2008

SM

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ALEXANDRIA, VA 22313-1450
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Thomas Pavelko
Stevens, Davis, Miller & Mosher, L.L.P.
1615 L Street, NW, Suite 850
P.O. Box 34387
Washington, D.C. 20043-4387

MAILED

NOV 2 8 2005

Technology Center 2100

In re Application of: Norton et al.
Application No. 09/984,862
Attorney Docket No. TPP 31343
Filed: October 31, 2001
For: HOSTED ASSET INFORMATION MANAGEMENT SYSTEM AND METHOD

DECISION ON PETITION TO DIRECTOR UNDER 37 CFR §1.181

This is a decision on the petition filed October 5, 2005 under 37 CFR § 1.181 requesting the entry of the after-final amendment originally filed on March 28, 2005. A final rejection was mailed on January 26, 2005.

Applicable Prosecution History

May 26, 2004	First Action on the Merits (FAOM) mailed. Claims 1-23 rejected using reference Brady (USP 6,633,875).
Aug 26, 2004	Applicants file response to FAOM. Response does not contain an affidavit.
Jan 26, 2005	Final rejection mailed and Brady reference is used in rejection of Claims 1, 2, 4-23.
Mar 28, 2005	After-final amendment filed for Claims 1, 5-7, 11, 14, 15, 19-20 along with 132 affidavit.
Apr 19, 2005	Advisory action mailed.
Apr 25, 2005	Notice of Appeal filed.
Jul 25, 2005	Appeal Brief filed with Mar 28 amended claims and 132 affidavit included.
Sep 15, 2005	Advisory Action mailed.
Sep 26, 2005	Notice of Non-compliant Appeal Brief mailed.
Oct 5, 2005	Petition filed.

Oct 12, 2005 Interview summary.

Nov 9, 2005 Applicant files substance of interview summary.

Issues

Petitioners' arguments are summarized as the following:

- Applicants were not on notice that the proposed after-final amendment had been denied entry.
- Applicants relied on "this lack of Notice".
- Applicants filed the Appeal Brief dated July 25, 2005 based on the lack of Notice.
- That there has been "considerable expenditure of resources and time by the Applicants in arguing the amended claims in the Appeal Brief...".
- That the Office, because of mistakes made, should direct the examiner to either allow the application or respond with an examiner's answer.

Decision

The Office regrets those occurrences when forms are not completed properly or procedures are not followed as outlined in the Manual for Patent Examining Procedure (MPEP). When such events occur, applicants are encouraged to contact the appropriate Office personnel as soon as problems are noted so that applicants' time and resources are not needlessly expended and the proper steps may be taken to promptly resolve a noted defect. At the same time, however, applicants should not be under the mistaken assumption that a procedural error will, or even should, lead to an application being forwarded for appeal or the even greater error of the grant of patent when an application is not in condition for either appeal or allowance.

A review of this application's contents shows that examiner failed to properly mark all appropriate boxes on the advisory action dated April 19, 2005. Specifically, the examiner did not indicate in the record the status of the proposed claims and the affidavit submitted in the after-final amendment filed March 28, 2005. There is no record, and the petitioners do not state, that they attempted to determine the status of this filing prior to the submission of the appeal brief filed three (3) months later. There is also no evidence that applicants have previously filed a request for reconsideration of the examiner's action. Additionally, an amendment filed under 37 CFR § 1.116 is not entered as a matter of right. As such, applicant should proceed on the assumption that such filings are *not* entered unless informed otherwise (preferably in writing).

Finally, it is noted this petition has been filed almost six (6) months after the action now being complained. Petitioners' attention is called to 37 CFR § 1.181(f) which states in applicable part: "Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided." Therefore, the petition is untimely.

For these reasons, the petition is **DISMISSED**. The after-final amendment filed March 28, 2005 stands as not entered and appellants' brief remains defective.

In order to clarify the record, the examiner will issue a new advisory action properly indicating the status of the claims and the status of the affidavit. Appellants' letter filed November 9, 2005 has been treated as a response to the Notice of Non-Compliant Appeal Brief mailed September

26, 2005. Because the after-final amendment and affidavit are not entered, the Appeal Brief remains defective. The examiner will send a new notice of Non-Compliant Appeal Brief that will restart appellants' period for reply.

Telephone inquiries from practitioners of record regarding this decision may be directed to Special Programs Examiner Josie Ballato at (571) 272-3567.

Peter Wong
Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Stephen Gigante
STEVEN, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, NW, Suite 850
Washington, D.C. 20036

MAILED

APR 06 2007

Technology Center 2100

In re Application of:
Phillip G. NORTON, et al.
Application No. 09/984,862
Filed: October 31, 2001
For: HOSTED ASSET INFORMATION MANAGEMENT SYSTEM AND METHOD

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petitions, filed on 29 June 2006 and again on 26 March 2007, under 37 CFR § 1.181 to invoke Supervisory Authority of the Director and to request the Director to order the Examiner to consider the amendment and Affidavit filed on 28 March 2005.

The petition filed on 29 June 2006 is **GRANTED**, and the petition filed on 26 March 2007 is **DISMISSED AS MOOT**.

A review of application file history, it revolves that both the RCE filed 28 November 2005 and the Notice of Appeal filed 27 December 2005 have been processed and entered in the instant application.

MPEP § 1204(I) states, in part:

> Applicant **cannot file an appeal** in a continuing application, or after filing a request for continued examination (RCE) under 37 CFR 1.114, until the application is under a rejection. Accordingly, applicant cannot file a notice of appeal with an RCE regardless of whether the application has been twice rejected prior to the filing of the RCE. [Emphasis added.]

37 C.F.R. § 1.114(d) states, in part:

> If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination ...

As stated in MPEP § 1204(I), the Notice of Appeal filed 27 December 2005 was improper and should not be entered. Thus, the entry of Notice of Appeal is hereby vacated.

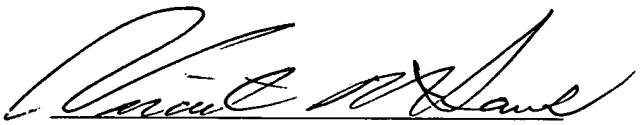
In view of 37 C.F.R. § 1.114(d) and the timely filing an RCE with the fee set forth in 37 CFR § 1.17(e) and an amendment that meets the reply requirements of 37 CFR § 1.111, the Office is hereby withdrawn the finality of any Office action to which a reply is outstanding and both the amendment and the affidavit filed on 28 March 2005 will be entered and considered.

Accordingly, the petition filed 29 June 2006 is **GRANTED**, and the examiner is required to fully consider both the amendment and the affidavit filed on 28 March 2005. A delay to render a decision on the petition filed 29 June 2005 is hereby regretted.

In view of the granted decision on the petition filed 29 June 2006, the petition filed 26 March 2007 is hereby **DISMISSED AS MOOT.**

The application is being forwarded to the Technology Center support staff for processing and entering both the amendment and the affidavit filed on 28 March 2005. From there, the application will be forwarded to the examiner of record to prepare an appropriate Office communication.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans
Quality Assurance Specialist
(Formerly Special Program Examiner)
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 6

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington VA 22201

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JUL 18 2002

OFFICE OF PETITIONS

RECEIVED
JUL 18 2002
OFFICE OF PETITIONS

CANCELED

In re Application of
Koch, et al.
Application No. 09/984,867
Filed: October 31, 2001
Attorney Docket No. 1579-624
For: HYPOTENSION

ON PETITION

This is a decision on the petition filed May 13, 2002, requesting that the above-identified application be accorded a filing date of October 31, 2001 using drawings containing Figures 3A and 3B that were supplied with the petition.

The application was filed on October 31, 2001. However, on March 12, 2002, the Office of Initial Patent Examination mailed a Notice Of Omitted Item(s) in a Nonprovisional Application (Notice) stating that the application had been accorded a filing date of October 31, 2001, and advising applicants that Figures 3A and 3B described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition contends that Figures 3A and 3B were, in fact, filed in the PTO on October 31, 2001, but that the figures were unlabeled.

The petition does not allege and is not accompanied by any evidence that the sheet of drawings containing the labels "Fig. 3A" and "Fig. 3B" supplied with the petition were present in the Office on October 31, 2001. Thus, the application will not be processed using the drawings supplied on May 13, 2002.

Also, the "Notice" mailed March 12, 2002, was correct in advising applicants that drawings of Figures 3A and 3B appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

The petition fee is required, since the petition was not necessary to correct any PTO error.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 31, 2001.

To avoid further delay in the examination of the application, a letter to the draftsman correcting the numbering of the unlabeled drawing figures should be filed prior to the first Office action.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 2023
www.uspto.g

MAILED

MAY 2 2 2003

Technology Center 2100

Paper No. 5

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

In re Application of:	)	
Manuel Gonzalez	)	
Application No. 09/984,929	)	**DECISION ON REQUEST FOR**
Filed: October 31, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: ELECTRONIC DOCUMENT HANDLING SYSTEM AND METHOD	)	

This is a decision on the Request To Withdraw from Representation filed March 26, 2003.

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

The request filed March 26, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

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

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 90527-2400

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

MAY 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

In re Application of)
John A. Underwood et al.)
Application No. 09/984,939)
Filed: October 31, 2001)
For: **PRINTING APPARATUS AND METHOD**)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 26, 2003.

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

The requesting attorney/agent John Ryan is not of record. Accordingly, the request is **DISMISSED**.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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Paper No. 10

McDERMOTT WILL & EMERY
600 13TH STREET NW
WASHINGTON DC 20005-3096

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DEC 22 2003

OFFICE OF PETITIONS

In re Application of
Mayumi Nakasato
Application No. 09/985,012
Filed: November 1, 2001
Attorney Docket No. 578100-024

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed December 17, 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 October 7, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No. 11

Date : December 22, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 09/985,012**

Applicant(s) : Mayumi Nakasato
Application No. : 09/985,012
Filed : November 1, 2001

The above-identified application has been assigned Patent No. 6,670,273 and an issue date of December 30, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 30, 2003:

"All reference to Patent No. 6,670,273 to Mayumi Nakasato of Japan for METHOD OF FABRICATING SEMICONDUCTOR DEVICE HAVING OPENING FILLED UP WITH FILLER appearing in the Official Gazette of December 30, 2003 should be deleted since no patent was granted."

Frances Hicks

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-7-08 Paper No.: ____

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction on Patent No.: 6851482 (09/985039)

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.

3rd time
Claims A/S/A/P E. Flanagan

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~[illegible]~~

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 DEPENDENCY OF THE ORIGINAL CLAIM 43 HAS BEEN CHANGED FROM CLAIM 25 TO CLAIM 19. FURTHERMORE, THE LIMITATION "SAID AT LEAST ONE FLUID CONDUIT" OF CLAIM 43 LACKS OF ANTECEDENT BASIS.

SPE

AU 3752
Art Unit

5-29-08

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 6,815,482
Inventor(s) : Kevin Michael Dolan
Issued : February 8, 2005
For: SPRINKLER ASSEMBLY

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction under Rule 1.323.

The dependency of the original claim 43 has been changed from claim 25 to claim 19. Furthermore, the limitation "said at least one fluid conduit" of claim 43 lacks of antecedent basis.

In view of the foregoing, your request is hereby denied.

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 105

Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington, DC 20004-2128

ej

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Paper No. None

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OFFICE OF PETITIONS

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

In re Application of :
Kelly G. Ammann et al. :
Application No. 09/985,064 :
Filed: November 1, 2001 :
Attorney Docket No. 2599-104-C1 :
Title: AUTOMATED PROCESS FOR ISOLATING AND AMPLIFYING A TARGET NUCLEIC ACID SEQUENCE :

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is in response to the petition filed August 12, 2004, under 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer.

On April 21, 2004, Petitioner submitted two terminal disclaimers, disclaiming the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration dates of patent numbers 6,335,166 and 6,355,166. Petitioner has since noted that the latter was filed in error, as it is an unrelated patent.

With the instant petition, Petitioner has submitted the petition fee. The Examiner has reviewed petitioner's request, and has determined that the second of the two previously filed terminal disclaimers should be withdrawn.

As such, the petition is **GRANTED**.

The previously filed terminal disclaimer (over patent number 6,355,166) is hereby **WITHDRAWN**.

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.

The application file is being forwarded to Technology Center 1600 for further processing.

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

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

cc: CAPPELLARI,CHARLES
Gen-Probe, Inc.
10210 Genetic Center Dr
San Diego, CA 92121

Fee Processing

(For Petitions Use Only)

App. No./Pat No.
9985064

Atty Docket No./Cust. No.
2599-104-c1

Paper Rec'd Date
8/12/2004

Form Completed
11/18/2004

Check Amt. #1

Check Amt. #2

Deposit Acct.
07 ---- 0835

Fee Code	Fee Amt.	Paper #
1460	$130	None

Hi Paul please return with a refund Sheet. Thanks

Credit Card ☐ (See attached)

Refund ☐ (See attached)

(PTO Employee - please circle the code(s) and amount(s) to be refunded/credited)

Change App No./Pat. No. ☐

From

To

Change Fee Code ☐

From Code	Amount

To Code	Amount	Paper #

Special Instructions:

Please charge the deposit acount as authorized.

PJ

Initials (PTO Employee) **Initials (Contractor)** **Date Processed**

*****PLEASE REMOVE THIS FORM BEFORE SENDING FILE OUT OF THE OFFICE OF PETITIONS*****

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NY 08830

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of :
Jason Kilgore :
Application No. 09/985,071 : ON PETITION
Filed: November 1, 2001 :
Title: Compliant Sealing Connection for Fuel Components :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 6, 2006.

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

This application was held abandoned September 7, 2005 for failure to timely reply to the non- final Office Action mailed on June 6, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed December 13, 2005.

Petitioner asserts that a reply to the non-final Office Action and request for a three month extension of time was timely submitted on December 6, 2005. As evidence, petitioner has submitted a copy of the reply which contains a certificate of transmission, and a copy of the Office's auto-reply pursuant to 37 CFR 1.8.

The response submitted December 6, 2005 has been located in the Office.

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

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to the Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Scott J. Anchell
Heller Ehrman LLP
1717 Rhode Island Avenue N.W.
Washington, D.C. 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 05,2007

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/985,086 Patent No.: 6873287 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Thomas N. Moulis 3662

SPE **Art Unit**

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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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SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Youichiro Sugimori et al :
Application No. 09/985,093 : DECISION GRANTING PETITION
Filed: November 1, 2001 : UNDER 37 CFR 313(c)(2)
Attorney Docket No. Q67025 :

This is a decision on the petition, filed January 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter will be referred to Technology Center AU 1764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 9

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MAY 13 2003

OFFICE OF PETITIONS

RICHARD J. RODRICK, ESQ.
BECTON DICKINSON AND COMPANY
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417-1880

In re Application of :
Tim H. Gordon, et al. :
Application No. 09/985,173 : ON PETITION
Filed: November 1, 2001 :
Attorney Docket No. P-5213@ :

This is a decision on the petition, filed April 30, 2003, under 37 CFR 1.137(b) to revive the above-identified application

A review of the record discloses that the application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed November 27, 2001. The notice required, within two-months, the statutory basic filing fee, additional claim fees, an oath or declaration under 37 CFR 1.63, the requisite surcharge, and substitute drawings in compliance with 37 CFR 1.84. On April 9, 2002[1], using a Certificate of Mailing under 37 CFR 1.8 dated March 27, 2002, applicant submitted an appropriate 2-month extension of time with the $400 extension fee, the $740 filing fee, the $180 additional claim fees, the $130 surcharge, and an executed declaration under 37 CFR 1.63. On August 8, 2002, a Notice of Incomplete Reply was mailed, indicating that applicant failed to provide the substitute drawings as required in the notice mailed November 27, 2001. Consequently, the application became abandoned on March 28, 2002.

Receipt is acknowledged of the sixty-six (66) sheets of formal drawings containing Figures 1-26B filed April 30, 2003.

The petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing and for correction of the filing date to **November 1, 2001**.

---

[1]Since the original papers filed April 9, 2002 could not be used as a part of the permanent records due to the US Postal Service's sanitization process, substitute papers were received on July 22, 2002, in response to a request therefor mailed July 11, 2002.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

ROBERT N. O'BRIEN
2614 QUEENS WOOD DR
VICTORIA BC V8N 1X5
CANADA

COPY MAILED

JAN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Robert N. O'Brien :
Application No. 09/985,206 : ON PETITION
Filed: 2 November, 2001 :
For: GAS-COLLECTING ELECTRETS AS :
MAGNETO-ELECTROLYSIS CELL :
COMPONENTS :

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

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are

---

[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)).

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.

This application became abandoned on 28 January, 2002, for failure to timely respond to the Notice to File Corrected Papers mailed on 27 November, 2001, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were filed. Notice of Abandonment was mailed on 6 November, 2003.

On 1 December, 2003, petitioner filed the present petition, accompanied by a check for $655.00.

The petition is dismissed because the petition fee has not been paid in the proper amount. Although petitioner submitted $655.00 with the present petition, the correct fee due on 1 December, 2003, was $665.00. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] Petitioner must submit the remaining balance due in order to complete the filing of the petition.

Additionally, it is noted that the petition does not appear to be accompanied by a proper reply to the Notice, which required a substitute specification in compliance with 37 CFR 1.52. The Notice also indicated that Figure 5 of the drawings appeared to be omitted. A copy of the Notice has been enclosed for petitioner's convenience in preparing a reply.

It is also noted that one of the pages of the petition has printing on the reverse side. All papers filed in the USPTO must be written on only one side.[3] Petitioners must resubmit all papers with writing on only one side of the page.

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

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

---

[2] MPEP 711.03(c); see 35 U.S.C. 41(a)(7).

[3] See 37 CFR 1.52(a)(iii).

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

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

D. Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice mailed 27 November, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
dw 02-04

Paper No. 8

ROBERT N. O'BRIEN
2614 QUEENS WOOD DR
VICTORIA BC V8N 1X5
CANADA

COPY MAILED

FEB 20 2004

OFFICE OF PETITIONS

In re Application of :
Robert N. O'Brien :
Application No. 09/985,206 : ON PETITION
Filed: 2 November, 2001 :
For: GAS-COLLECTING ELECTRETS AS :
MAGNETO-ELECTROLYSIS CELL :
COMPONENTS :

This is a decision in reference to the papers filed on 12 February, 2004, which are treated as a renewed petition under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 January, 2002, for failure to timely respond to the Notice to File Corrected Papers

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed on 27 November, 2001, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were filed. Notice of Abandonment was mailed on 6 November, 2003. The petition filed on 1 December, 2003, was dismissed on 8 January, 2004, because the petition fee was insufficient and a proper reply to the Notice had not been filed.

The petition is accompanied by the proper fee and a substitute specification.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

AT&T CORP
PO BOX 4110
MIDDLETOWN NJ 07748

COPY MAILED

AUG 3 0 2002

OFFICE OF PETITIONS

In re Application of
Mathilde Benveniste
Application No. 09/985,257
Filed: November 2, 2001
Attorney Docket No. 2000-0611

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed April 22, 2002.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 2, 2001, without an executed oath or declaration. Accordingly, on November 26, 2001, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply, to January 26, 2002.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a three month extension of time. Accompanying the petition were, *inter alia*, a "Declaration and Power of Attorney Under 37 CFR 1.47(b), 1.63, 1.63(b)", executed by Christine Szwerc, attorney for purported assignee AT&T Corp., and a copy of a cover letter addressed to nonsigning inventor Mathilde Benveniste.

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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address

of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage. The instant petition does not satisfy requirement (5).

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant purports to be the assignee of the above-identified application. However, applicant has not submitted a copy of the assignment nor a statement under 37 CFR 3.73(b) by the assignee.[1] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[2]

With the instant petition, applicant did submit a document entitled "Assignment and Agreement." However, the signature block of Benveniste, in addition to that of the Notary Public, is left blank.

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

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

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

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

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

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

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[1] See MPEP 409.03(f).

[2] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

AT&T CORP
PO BOX 4110
MIDDLETOWN NJ 07748

COPY MAILED

MAR 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Mathilde Benveniste :
Application No. 09/985,257 : DECISION ACCORDING STATUS
Filed: November 2, 2001 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 2000-0611 :

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(b)", filed February 7, 2003 (Certificate of Mailing dated January 30, 2003).

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

The above-identified application was filed on November 2, 2001, without an executed oath or declaration. Accordingly, on November 26, 2001, the Initial Patent Examination Division mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply, to January 26, 2002.

In reply, applicant filed a petition under 37 CFR 1.47(b) on April 22, 2002, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, petitioner purchased a three month extension of time. Accompanying the petition were, *inter alia*, a "Declaration and Power of Attorney Under 37 CFR 1.47(b), 1.63, 1.63(b)", executed by Christine Szwerc, attorney for purported assignee AT&T Corp., and a copy of a cover letter addressed to nonsigning inventor Mathilde Benveniste.

However, this petition was dismissed in a decision mailed on August 30, 2002. Applicant failed to show a sufficient proprietary interest in the subject matter.

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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address

of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) a showing that such action is necessary to preserve the rights of the party or to prevent irreparable damage.

On renewed petition[1], Rule 47 applicant has provided a copy of a signed employment agreement, dated December 19, 1983, whereby Benveniste agreed to assign all rights to future inventions made during the period of her employment with the assignee.

The petitions filed April 22, 2002 and February 7, 2003 and the declaration filed on April 22, 2002 have been reviewed and found to be in compliance with 37 CFR 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

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

The application file is being forwarded to Technology Center 2600, Group Art Unit 2661 for docketing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] Made timely by including a three month extension of time.

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

HOFFMAN WASSON & GITLER PC
SUITE 522
2361 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

COPY MAILED

JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Bernhard Beck et al :
Application No. 09/985,275 : NOTICE
Filed: November 2, 2001 :
Attorney Docket No. A-7664.SLEF/1at :

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 3753.

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

Sonnenschein Nath & Rosenthal
P. O. Box 061080
Wacker Drive Station
Sears Tower
Chicago, IL 60606-1080

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OCT 31 2005

OFFICE OF PETITIONS

In re Application of :
Falko Tesch, et al. :
Application No. 09/985,277 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. 30014200.1019 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a non-final Office action.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center 2100.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

JUN 0 9 2009

OFFICE OF PETITIONS

In re Application :
Wernet :
Application No. 09/985,335 : PATENT TERM ADJUSTMENT
Filed: November 2, 2001 :
Dkt. No.: 07588/026002 ::

This decision is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed January 28, 2009. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(b).

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed October 30, 2008, indicated a patent term adjustment to date of zero days. Applicant argues that the application is entitled to an additional adjustment of 925 days pursuant to 35 USC 154(b)(1)(B).

Applicant does not dispute the adjustments of 241 days or the reductions of 670 days accorded to date.

Instead, applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily 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, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, 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.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of zero days.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

The application file is being 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 for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAR 16 2010

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Patent No. 7,560,280
Issued: July 14, 2009
Application No. 09/985,335
Filed: November 2, 2001
Dkt. No.: 07588/026002

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 4, 2009, 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 543 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 3, 2004 and ends on May 15, 2007, the day before the RCE was filed, and not May 16, 2007 the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 924 days not 925 days. As such, the correct patent term adjustment is 542 days, not 543 days.

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. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Corrections 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 542 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,560,280

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Wernet 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 503 days

Delete the phrase "by 503 days" and insert – by 542 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

STEVENS, DAVIS, MILLER & MOSHER
SUITE 850
1615 L STREET, N.W.
WASHINGTON DC 20036

COPY MAILED

OCT 28 2005

OFFICE OF PETITIONS

In re Application of :
Yves Louis Gabriel Audebert et al :
Application No. 09/985,344 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. L741.01107 :

This is a decision on the petition, filed October 26, 2005, and supplemented on October 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2132 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

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.
09/985,383	11/02/2001	Dennis Rosenfeld	A8221	3656

7590 02/08/2005

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

EXAMINER	
GARCIA, ERNESTO	
ART UNIT	**PAPER NUMBER**
3679	

DATE MAILED: 02/08/2005

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

Paper No. 20050107

In re Patent of Dennis Rosenfeld	:	
Issue date: February 3, 2004	:	
Application No.: 09/985,383	:	DECISION ON PETITION
Filed: November 2, 2001	:	UNDER 37 CFR 1.324
Attorney Docket No.: A8221	:	
For: ANTENNA AND RADIO INTERFACE	:	

The petition to correct inventorship under 37 CFR 1.48 filed December 22, 2003 was not matched to the file until after publication of the instant application as a patent. Accordingly, this petition is being treated as a petition to correct inventorship under 37 CFR 1.324.

This is a decision on the petition filed December 22, 2003 to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming all of the actual inventors, i.e., Dennis Rosenfeld, Robert Hathaway and Adrian T. Utrilla.

Daniel P. Stodola

Daniel P. Stodola, SPE
Art Unit 3679
Technology Center 3600

Brian W. Hannon
SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: January 7, 2005
TO: Certificates of Correction Branch
FROM: Daniel P. Stodola
SPE, Art Unit 3634
SUBJECT: Request for Certificate of Correction

Please issue a Certificate of Correction in U.S. Letters Patent No. 6,685,383 as specified on the attached Certificate.

Daniel P. Stodola, SPE
Art Unit 3679
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE

Patent No. 6,685,383
Patented: February 3, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly set forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Dennis Rosenfeld, Robert Hathaway and Adrian T. Utrilla

Daniel P. Stodola, Supervisory Patent Examiner
Art Unit 3679

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

Paper No. 8

APR 22 2003

OFFICE OF DIRECTOR
GROUP

Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of:
Banish *et al.*
Application No. 09/985,403
Filed: November 2, 2001
Attorney Docket No. 2119-0166P

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 March 11, 2003.

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

The request was signed by Michael K. Mutter, an attorney of record, on behalf of all attorneys associated with Customer No. 02292. Further, there is at least thirty days remaining between the date of this decision and the expiration date of the maximum time period for response set by the Office action mailed on March 26, 2003. Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to the Patent Administrator of Mems Optical, Inc., at the below-listed address until otherwise notified by the applicant or assignee.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Patent Administrator
Mems Optical, Inc.
205 Import Circle, Suite 2
Huntsville, AL 35806

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

FISH & RICHARDSON P.C.
1425 K STREET NW
11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED

OCT 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Robert A. Sanderson et al :
Application No. 09/985,406 : NOTICE
Filed: November 2, 2001 :
Attorney Docket No. 09850-017001 :

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 3745.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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1111 PENNSYLVANIA AVE NW
WASHINGTON DC 20004

COPY MAILED

JAN 24 2006

OFFICE OF PETITIONS

In re Application	:	
Zasloff, et al.	:	DECISION ON APPLICATION FOR
Application No. 09/985,417	:	PATENT TERM ADJUSTMENT
Filed: November 2, 2001	:	
Patent No. 6,962,909	:	
Issued: November 8, 2005	:	

This letter is in response to the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)", filed December 20, 2005. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected from fifteen (15) days to nineteen (19) days.

The application for patent term adjustment is **DISMISSED**.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,962,909. The instant request for reconsideration filed December 20, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of fifteen (15) days.

Patentees state that they should not have been assessed applicant delay of sixty-three (63) days for filing an RCE on April 23, 2003, after a Notice of Appeal was filed on December 23, 2002. Patentees argue that they should have only been assessed applicant delay of fifty-nine (59) days for this filing.

Patentees state the patent is subject to a terminal disclaimer.

The Office determined a patent term adjustment of fifteen (15) days based on an adjustment for PTO delay of forty-one (41) days and thirty-two (32) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), and one hundred eighty-six (186) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(6), reduced by Applicants' delays of ninety (90) and ninety-one (91) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b), and sixty-three (63) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10).

All adjustments above have been reviewed and determined to be correct. A final Office action was mailed on June 24, 2002. Applicants filed a Notice of Appeal on December 23, 2002, and were properly assessed delay of ninety (90) days. The filing of the Notice of Appeal stopped the clock for purposes of the three month time period set forth in 37 C.F.R. § 1.704(b). Applicants were properly not assessed any delay for the filing of an RCE on April 23, 2003.

In view thereof, the correct determination of patent term adjustment is fifteen (15) days (259 (186+32+41) days of PTO delay, reduced by 244 (63+91+90) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

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

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SEP 15 2004

JAMES C. LYON
ATTORNEY AT LAW
SUITE 100
100 DAINGERFIELD ROAD
ALEXANDRIA VA 22314

In re Application of
Jari Hovinen
Serial No.: 09/985,454
Filed: 11/02/2001
Attorney Docket No.: TUR-123

: PETITION DECISION

This is in response to the petition under 37 CFR 1.144, filed July 30, 2004 requesting a withdrawal of the Restriction requirement of January 16, 2004.

BACKGROUND

A review of the file history shows that the application was accepted under 35 U.S.C. 111 on November 2, 2001. The application as filed contained claims 1-17. In the first office action mailed September, 2003 the examiner in Art Unit 1637 set forth a restriction requirement under 35 U.S.C. 121 dividing the claims into 2 groups. The response to the election was filed on October 14, 2003. Upon review of the application, the examiner withdrew the previous restriction and set forth a new restriction, mailed on January 16, 2004, with the following six groups:

Group I, Claims 1-9 and 16, drawn to a labeling reactant of formula (I) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is CH , classified in class 540, subclass 1+.
Group II, Claims 1-9 and 16, drawn to a labeling reactant of formula (I) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is N or –C=O-N- , classified in class 540, subclass 1+.
Group III, Claims 1-9 and 16, drawn to a labeling reactant of formula (I) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is –P=O or –P=S , classified in class 540, subclass 1+.
Group IV, Claims 10-15 and 17, drawn to a labeling reactant of formula (II) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is CH , classified in class 540, subclass 1+.
Group V, Claims 10-15 and 17, drawn to a labeling reactant of formula (II) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is N or –C=O-N- , classified in class 540, subclass 1+.

Group VI, Claims 10-15 and 17, drawn to a labeling reactant of formula (II) and the oligonucleotide conjugate made therefrom, wherein Z is a bridge point and is –P=O or –P=S , classified in class 540, subclass 1+.
Applicant was also asked to elect a species for Groups I-III from claim 9. There was no species elected required for Groups IV-VI.

Applicants responded on February 17, 2004, electing Group I, with traverse, electing a species from claim 9 as required. Applicants provisionally elected compound 13 as the elected species. In reference to the election, Applicant stated " The elected species is disclosed in the specification at page 22, lines 21-24 and in the Scheme on page 28. Claims 6 and 9 read on elected species, with claims 5, 6 and 9 being generic thereto." The traversal was based on the argument that the Restriction Requirement should be withdrawn because restriction within a single claim is improper under In re Harnisch, 631 F.2d 716, 206 USPQ 300 (CCPA 1980) and the argument that there was not a burdensome search.

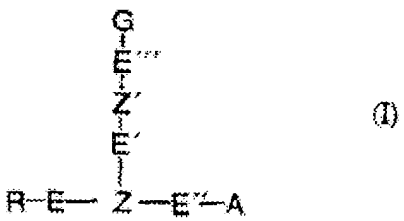
At this point in prosecution the application was transferred to Art Unit 1623. With the election of compound 13 as the species, the examiner withdrew claims 2-4 and 7-8 and 16 as being directed to a non elected invention and the invention was then searched in class 536, subclasses 25.3, 25.32, 26.8, 27.1, 27.13 and 28.1. A word search was also performed in WEST.

A first Office action on the merits was sent out on May 4, 2004. In this action, the examiner responded to applicant's traverse with the statement that "In re Harnish indicates that restriction would not be proper within a single claim when the claimed embodiments share a common utility and a common structural feature disclosed to be essential for that utility. Applying this test in this case, the claimed embodiments have a common utility but lack a common structural feature disclosed to be essential to that utility. In conclusion, restriction in the instant application is proper under In re Harnish." The examiner made the restriction Final.

DISCUSSION

Applicant is relying on In re Harnish as a basis for the rejoining of the Groups I-VI . Harnish indicates that restriction is not proper within a single claim when two criteria are met. The first criteria is that the claimed embodiments share a common utility. The second criteria is a common structural feature is disclosed as being essential to that utility.

The Markush structure in claim 1 of formula (I) is given below:



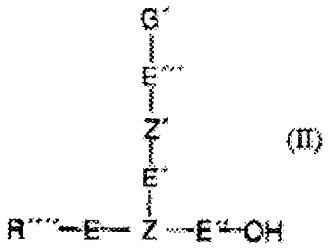
(I)

Even if formula (I) does have a common utility, it does not have a common core essential to that utility. Every one of the letters in formula (I) has a page of various molecular moieties that can be substituted for the particular alphabetic symbol. The Z moieties in formula (I) have been the point of restriction by the examiner, however, every letter has a large diverse grouping of molecular components.

For example the definition for Z', which is just one other position in formula (I), is that Z' is a purine or pyrimidine base selected from the group consisting of adenine, guanine, cytosine, thymine, uracil, 7-deazaadenine, 7-deazaguanine and hypoxantene, where E' is attached to N1 of pyrimidines and N9 of purines, and E''' is attached to C7 of 7-deazapurines, N3 or C5 of uracil, N3 of thymine, C5 or N^4 of cytosine C8 N^2 N3 or O^6 of guanine, C8, N^6 or C2 of adenine, and where the exocyclic functional groups of said base are appropriately protected preferably with benzoyl, isobutyryl or acetyl, or
Z' is selected from the group consisting of imidazole, pyrazolo [3,4-d]pyrimidine, 4-amino-pyrazolo [3,4-d]pyrimidine, 1,2,4-triazine-3,5-dione, 5-amino-1,2,4-triazine-3-one, where E' is attached to N1 of imidazole, N2 of 1,2,4-triazine-3,5-dione and 5-amino-l,2,4-triazine-3-one, and N7 of 4-amino-pyrazolo [3,4-d]pyrimidine and pyrazolo [3,4-d]pyrimidine, and E'' is attached to C4 or C5 of imidazole, C2 or C9 of 4-amino-pyrazolo [3,4-d]pyrimidine, C2, C4 or C9 of pyrazolo [3,4-d]pyrimidine, N4, C5 or C6 of 1,2,4-triazine-3,5-dione and N^5 or C6 of N^5-amino-1,2,4-triazine-3,5-dione and where the exocyclic functional groups of said base are appropriately protected preferably with benzoyl, isobutyryl or acetyl;

Formula (I) is found in Groups I-III.

The structure for claim 10 of formula (II) is given below:



(II)

The structure of formula (II) has a different structure than formula (I) since it contains R'''' and OH in place of R and A, respectively, in formula (I). Therefore, there is no "special technical feature" which unites Groups I-III and Groups IV-VI. There is also no "special technical feature" which unites Groups IV-VI since there is no common core within formula (II).

The two structures do not meet the criteria of In re Harnish. Therefore the concept of different inventions which are restrictable within a claim is supported in this instance.

That being said, a review of the history of prosecution shows that although Group I consists of any formula (I) compound that has Z as CH, with no other restriction on the other alphabetical moieties, the examiner still limited the required election to a species in claim 9. Claim 9 only has 4 compounds and it is not clear from their nomenclature that they all are in Group I.

The applicant was not allowed to choose **any** species from Group I that is supported by the specification. Applicant was only allowed to chose from a very small subset that was limited by the examiner. Applicant should have the right of electing any species in the chosen Group when the examiner requires an election of species from a specific group.

It is noted that Group I, in itself, contains many different inventions which could be re-evaluated at anytime during prosecution. However, as presently written, the elected Group is drawn to any structure of formula (I) wherein Z is CH. And although Groups I-VI are not rejoined, applicant will be allowed to re-choose any species from Group I and the examiner will continue the examination based on that election of that species. If the elected species is not found the search will continue until another species is found or until the genus, which in this instance would be Group I, has been found allowable. If another species is not elected, the originally elected species will be prosecuted.

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

The application will be forwarded to the examiner for further action consistent with the decision.

Should there be any questions about this decision please contact Jean F. Vollano by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

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FEB 23 2005

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In re Application of
Jari Hovinen
Serial No.: 09/985,454
Filed: 11/02/2001
Attorney Docket No.: TUR-123

: PETITION DECISION

This is in response to the Request for Reconsideration of the decision on the petition file under 37CFR 1.144, which was Granted -In -Part on September 15, 2004. The request for reconsideration was filed on November 5, 2004.

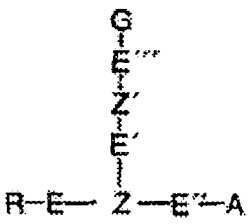
BACKGROUND

A review of the file history was set forth in the petition decision mailed on September 15, 2004 and is not repeated herein. Since the mailing of the petition decision, a non responsive letter due to incorrect formatting of the amended claims was mailed out on October 19, 2004 and has not been responded to. This renewed petition was filed on November 5, 2004.

DISCUSSION

In the initial petition Applicant relied on In re Harnisch as a basis for the rejoining of the Groups I-VI . Harnish indicates that restriction is not proper within a single claim when two criteria are met. The first criteria is that the claimed embodiments share a common utility. The second criteria is a common structural feature is disclosed as being essential to that utility.

The Markush structure in claim 1 of formula (I) is given below:

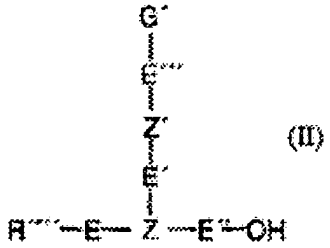


(I)

In the decision it was stated that even if formula (I) did have a common utility, it did not have a common core essential to that utility. Every one of the letters in formula (I) had a page of various molecular moieties that can be substituted for the particular alphabetic symbol.

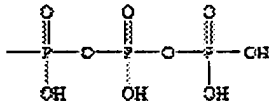
Formula (I) is found in Groups I-III.

The structure for claim 10 of formula (II) is given below:



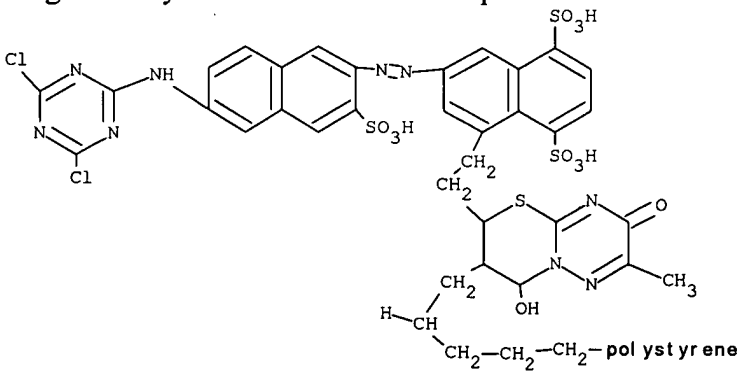
(II)

It was further stated in the decision that the structure of formula (II), which appears in Groups IV to VI, had a different structure than formula (I) since it contains R'''' attached to E and has an OH which is attached to the E" . In formula (II) R"" is

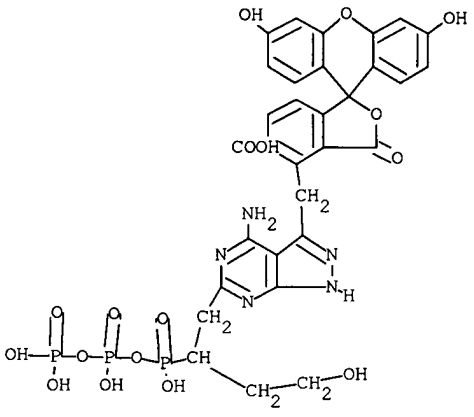


which is found in place of R of formula (I) and the OH attached to E" in formula (II) is found in place of A in formula (I). A is defined as a polystyrene, glass or other solid support , or a phosphite or phosphonate, in formula (I). Therefore, there is no "common structure" which unites Groups I-III and Groups IV-VI. There is also no "common structure" which unites Groups IV-VI since there is no common core within formulas (I) and (II).

To further point out the differences in Groups (I) and (IV) which both have Z as CH some structures are drawn below. One is an example of a structure of formula (I) Group I wherein G is a dye and Z is CH, Z' is a heteroring as exemplified, A is the polymer polystyrene which is a long chain hydrocarbon and R is not present.



Next we have an example of a structure or formula (II) Group IV: wherein G is a dye and Z is CH, Z' is a heteroring as exemplified and R"" is, as required, –P(O)(OH)-O-P(O)(OH)-O-P(O)(OH)2 and OH



There is no substantial common structural core in either of the compounds where both have Z as CH. Nor is one a subset of the other. They are structurally different. There is a burdensome search required for searching the different structues. Although the examiner originally cited one representative class and subclass for each group, there are multiple classes and subclasses in each of the individual groups. The representative structures above are found in different classes and subclasses and the on-line structural drawing of one would not be sufficient to search the other structure even if G' and Z' were the same. Indeed even in the same Group there are a large variety of structures classified in different classes and subclasses which would have to be searched. It was pointed out in the initial petition decision that Group I, in itself, contained many different inventions which could be re-evaluated for further restriction at anytime during prosecution. There is a burdensome search even within Group I alone.

The decision stated that the two structures do not meet the criteria of In re Harnish. Therefore the concept of different inventions which are restrictable within a claim was supported in this instance.

In re Harnish clearly allows for a separation of embodiments within a claim where those embodiments lack "unity of invention". Unity of invention only applies to compounds within a Markush group , requiring common utility and a substantially similar structural feature common to that utility.

A review of the history of prosecution shows that although Group I consists of any formula (I) compound that has Z as CH, the examiner still limited the required election to a species in claim 9. Claim 9 only has four compounds exemplified and it is not clear from their nomenclature that all of the four compounds are in Group I.

It was further noted in the decision that applicant was not allowed to choose **any** species from Group I that is supported by the specification. Applicant was only allowed to chose from a very small subset that was identified by the examiner. Applicant has the right to elect any species in the chosen Group when the examiner requires an election of species from a specific group and therefore the petition was **GRANTED-IN-PART** to allow applicant the opportunity to chose any species from Group I and the examiner would continue the examination based on the chosen species. If the elected species was not found, then the search would continue until another species was found or until the genus, which in this instance would be Group I, was found allowable. If no new election was made, the originally elected species would be considered constructively elected.

In the request for reconsideration applicant states that the decision incorrectly interprets Harnisch and that the decision cites no authority other than Harnisch to support the restriction requirement. Applicant based the traversals during examination and the petition on In re Harnisch and the decision was directed to applicant's arguments. The support for the restriction requirement was that there is patentable distinction and a burdensome search based on the lack of a substantial common core in the Markush group which was fully discussed in the petition decision of September 15, 2004.

Applicant also states, in the request for reconsideration, that In re Weber 580 F.2d 455, 198 USPQ 328 (CCPA 1978) prohibits the Patent Office from restricting within a single claim. Weber does not state that one cannot restrict within a single claim. In the opinion section of In re Weber it is stated that "It is apparent that §121 provides the Commissioner with the authority to promulgate rules designed to *restrict* an *application* to one of several claimed inventions when those inventions are found to be "independent and distinct." It does not, however, provide a basis for an examiner acting under the authority of the Commissioner to *reject* a particular *claim* on that same basis." The examiner restricted between inventions not between claims which is in accordance with In re Weber.

Restriction is proper where there is a "lack of unity of invention" and, as such, is not affected by the manner of claiming-i.e. in separate claims or within a single claim. Note 37CFR 1.141(a) which states two or more independent, and distinct invention may not be claimed in one application. One application includes the possibility of the separate inventions appearing in one claim or in more than one claim.

Applicant's final argument concerns MPEP 803.02 wherein applicant states that "803.02 mandates that once an election of species has been imposed, the prior art search will be extended to determine the patentability of the Markush-type claim." MPEP 803.02 states "A Markush-type claim can include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing claims of that nature, the examiner may require a provisional election of a single species prior to examination on the merits.". The examiner set forth a restriction requirement within which an election of species was required solely as a starting point to examine the elected group.

MPEP 803.02 also states " Since the decisions in In re Weber, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and In re Haas, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention. In re Harnisch, 631 F.2d 716, 206 USPQ 300 (CCPA 1980); and Ex parte Hozumi, 3 USPQ2d 1059 (Bd. Pat. App. & Int. 1984). Broadly, unity of invention exists where compounds included within a Markush group (1) share a common utility, and (2) share a substantial structural feature disclosed as being essential to that utility." There is no substantial common structural feature and therefore there is a lack of unity of invention and a restriction is proper.

The request for reconsideration is **DENIED**.

The application will be forwarded to the examiner for further action consistent with the decision.

Should there be any questions about this decision please contact Jean F. Vollano by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0648 or by facsimile sent to the general Office facsimile number 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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OFFICE OF PETITIONS

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In re Application of :
Hovinen : DECISION ON APPLICATION
Application No. 09/985,454 : FOR PATENT TERM ADJUSTMENT
Filed: November 2, 2001 :
Atty. Dkt. No: TUR-123 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)" filed April 9, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed January 12, 2007, indicated that the PTA to date is 263 days. The instant application for patent term adjustment was timely filed April 9, 2007 wherein applicants argue the application is entitled to an adjustment of 843 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 774 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 774 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

As uncontested by applicant, the application is entitled to an adjustment of 263 days pursuant to 37 CFR 1.702(a)(1).

As argued by applicant, the application is entitled to a further adjustment of 678 days in accordance with 37 CFR 1.702(a)(1) in connection with the mailing of the Notice of Allowance on January 12, 2007. The adjustment commenced March 6, 2005, the day after the date that is four months after a proper reply to the non-final Office action mailed May 4, 2004 was filed, and ended January 12, 2007, the date that the Notice of Allowance was mailed.

As indicated by applicants, the adjustment is properly reduced 98 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental reply filed November 5, 2004. The reduction began July 31, 2004, the day after the date that the initial reply to the non-final Office action mailed May 4, 2004 was filed, and ended November 5, 2004, the date the supplemental reply was filed.

In view thereof, as of the time of allowance, the application is entitled to an adjustment of 843 days, as argued by applicants.

Receipt is hereby acknowledged of the required PTA application fee of $200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

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

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

Kery A Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 9/13/2007

PALM INTRANET

Time: 10:02:37

PTA Calculations for Application: 09/985454			
Application Filing Date:	11/02/2001	PTO Delay (PTO):	263
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	843
PTO Delay Adjustment:	580		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	580		
41	01/12/2007	MAIL NOTICE OF ALLOWANCE			
40	01/08/2007	ISSUE REVISION COMPLETED			
39	01/08/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
38	01/08/2007	CASE DOCKETED TO EXAMINER IN GAU			
36	01/08/2007	NOTICE OF ALLOWABILITY			
35	01/17/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/17/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
33	11/13/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
32	02/23/2005	PETITION DECISION - DENIED			
31	01/13/2005	PETITION ENTERED			
30	12/13/2004	CORRESPONDENCE ADDRESS CHANGE			
29	11/05/2004	WORKFLOW INCOMING PETITION IFW			
28	10/19/2004	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
27	09/15/2004	PETITION DECISION - GRANTED IN PART			
26	07/30/2004	PETITION ENTERED			
25	08/10/2004	DATE FORWARDED TO EXAMINER			
24.1	07/30/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
24	07/30/2004	RESPONSE AFTER NON-FINAL ACTION			
23	07/30/2004	NEW OR ADDITIONAL DRAWING FILED			
22	07/30/2004	WORKFLOW INCOMING AMENDMENT IFW			
21	05/04/2004	MAIL NON-FINAL REJECTION			

20	05/03/2004	NON-FINAL REJECTION			
19	03/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	02/25/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
17	02/23/2004	DATE FORWARDED TO EXAMINER			
16	02/17/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
15	01/16/2004	MAIL RESTRICTION REQUIREMENT			
14	01/12/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
13	11/06/2003	DATE FORWARDED TO EXAMINER			
12	10/14/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
11	09/22/2003	MAIL RESTRICTION REQUIREMENT	263		-1
10	09/17/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
9	08/27/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
8	01/17/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	01/30/2003	CASE DOCKETED TO EXAMINER IN GAU			
6	02/04/2002	APPLICATION DISPATCHED FROM OIPE			
5	01/31/2002	APPLICATION IS NOW COMPLETE			
4	11/20/2001	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	11/20/2001	CORRESPONDENCE ADDRESS CHANGE			
2	11/06/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/02/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Jari Hovinen	: DECISION ON REQUEST FOR
Patent Number	: 7282581	: RECALCULATION of PATENT
Issue Date	: 10/16/2007	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/985,454	: OF WYETH
Filed	: 11/02/2001	:
		:

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

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WASHINGTON, D.C. 20231
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Paper No. 6

KENYON & KENYON
1500 K STREET N W
SUITE 700
WASHINGTON, DC 20005

COPY MAILED

APR 15 2002

OFFICE OF PETITIONS

In re Application of :
Ronald D. Blum et al :
Application No. 09/985,456 : NOTICE
Filed: November 2, 2001 :
Attorney Docket No. 10551/232 :

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 1771.

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

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APR 23 2004

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Nixon & Vanderhye, PC
1100 N. Glebe Road
8th Floor
Arlington, VA 22201-4714

Paper No.

In re Application of	:	DECISION ON PETITION
Michael K. Gunaratnam et al	:	TO WITHDRAW
Serial No. : 09/985,457	:	HOLDING OF
Filed : November 2, 2001	:	ABANDONMENT
For : Gas Delivery Connection Assembly	:	

This is a decision on petitioner's request filed January 14, 2004, to review the holding of abandonment of the instant application for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed June 13, 2003. It is noted that no Notice of Abandonment has been mailed in the instant application. The basis for the request is that applicant did not receive the communication mailed June 13, 2003. Petitioner became aware of the mailing of the Notice of Allowance during a routine telephonic status check held November 3, 2003 with the Examiner in charge of the application. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed January 14, 2004 includes all the above elements. Further, an inspection of the file reveals that the Office action in question was returned undelivered. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the mailing of a new Notice of Allowance and Fee(s) Due with a copy of the Notice of Allowability that was mailed June 13, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/4/07/04

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)
7008650	2006-03-07	09985460	2001-11-02	03511.114

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	/paullam/	Date (YYYY-MM-DD)	2010-05-13
Name	Paul Lam		

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. 7008650
Issue Date: March 7,2006
Application No. 09985460
Filed: November 2,2001
Attorney Docket No. 03511.114

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

This is a decision on the electronic petition, filed May 13,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 13,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: John G. Wilmot	: DECISION ON REQUEST FOR
Patent Number	: 7569035	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/985,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/02/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1643** 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.

PET DEC

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BC

Mailed: JUN - 2 2004 Paper Number:

In re application of	:	
Kenji Sakai et al.	:	
Serial No. 09/985,490	:	DECISION ON
Filed: November 5, 2001	:	PETITION
For: POLISHING COMPOSITION AND POLISHING METHOD EMPLOYING IT	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 TO CONSIDER THE COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE AND TO INDICATE CONSIDERATION OF THE INFORMATION DISCLOSURE STATEMENT OF MARCH 21, 2002. The instant petition under 37 CFR 1.181 was timely filed to formally request the consideration of the enclosed Comments on Statement of Reasons for Allowance. Additionally, it is requested that the office indicate consideration of the information disclosure statement of March 21, 2002 that was previously filed.

DECISION

MPEP 1302.14 infers that "Comments on the Statement of Reasons for Allowance" are considered to be comments from the applicant concerning the agreement or disagreement of the examiner's reasons for allowance statement. The Petition on the grounds to consider Comments on the Statement of Reasons for Allowance cannot be granted, since the Petition does not contain any comments regarding the reasons for allowance. This issue of the present Petition is **DISMISSED**.

As to the Information Disclosure Statement, which was timely filed on March 21, 2002, it has now been fully considered by the examiner. A copy of the initialed, signed and dated PTO-1449 is attached to this decision. Accordingly, this issue of the Petition is **GRANTED**.

This Petition is **GRANTED-IN-PART**.

JMStone

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

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

OIPE JC17
MAR 21 2002
PATENT & TRADEMARK OFFICE

3/21/02

SHEET 1 OF 1

FORM PTO-1449 (MODIFIED) U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTY DOCKET NO 215486US0	SERIAL NO. 09/985,490
LIST OF REFERENCES CITED BY APPLICANT	APPLICANT Kenji SAKAI, et al.	
	FILING DATE November 5, 2001	GROUP 1751

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
LTME	AO	1 011 131	06 21 2000	EUROPE		
LTME	AP	1 020 468	07/19/2000	EUROPE		
LTME	AQ	0 747 939	12/11/96	EUROPE		
LTME	AR	0 846 742	06/10/98	EUROPE		
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

RECEIVED
MAR 26 2002
TC 1700

Examiner Lynette T. Umez-Eronini | Date Considered 5/24/2004

Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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DIW 03-02

Paper No. 4

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK NY 10154-0053

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APR 0 8 2002

OFFICE OF PETITIONS

In re Application of
Thornton et al.
Application No. 09/985,500
Filed: 5 November, 2001
Atty's Docket No. 3359-4020US2

DECISION GRANTING PETITION

This is a decision on the petition styled under 37 CFR 1.181, filed on 26 February, 2002, requesting that a Notice of Omitted Item(s) in a Nonprovisional Application mailed on 17 January, 2002, be withdrawn.

On 5 November, 2001, the application was filed.

On 17 January, 2002, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application stating that the application had been accorded a filing date of 5 November, 2001, but that Figures 6A & 6B described in the specification appeared to have been omitted.

In response, on 26 February, 2002, one (1) sheet of drawings containing Figures 6A & 6B and the present petition were submitted. Petitioners assert that one (1) sheet of drawings containing Figures 6A & 6B was filed with the other application papers on 5 November, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 5 November, 2001, and identifies the application by attorney docket number, first-named inventor's last name and invention title, and acknowledges receipt, *inter alia*, of 25 sheets of drawings. Petitioners request that the application, including the one (1) sheet of drawings containing Figures 6A and 6B be accorded a filing date of 5 November, 2001.

Upon further review, 24 sheets of drawings containing Figures 1-3, 4A, 4B, 5A-5D, 7A-7C, 8A-8F, 9A-9C, 10A, 10B, 11A, 11B, 12A-12D, 13, 14A-14D, 15-23, 24A, 24B, 25A, 25B, 26A-26C, 27A, 27B, 28A-28E, and 29A-29D have been located in the file. However, the evidence is convincing that the application papers deposited on 5 November, 2001, included one (1) sheet of drawing containing Figures 6A and 6B as described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figures 6A and 6B as described in the specification, is entitled to a filing date of 5 November, 2001.

Accordingly, the Notice of Omitted Item(s) in a Nonprovisional Application mailed on 17 January, 2002, is hereby withdrawn.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application will be processed, using the application papers, filed on 5 November, 2001, and the one (1) sheet of drawings containing Figures 6A and 6B supplied on 26 February, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 5 November, 2001, using the application papers filed that date, and the one (1) sheet of drawings containing Figures 6A and 6B supplied on 26 February, 2002, and for an indication on the bib-data sheet that 25 sheets of drawings were present on filing.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : NOVEMBER 12, 2009

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 09985543 Patent No.: 7337116

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 – 9D40-C
Palm Location 7580

Certificates of Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/David R. Hudspeth/ — **SPE**

2626 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED

MAR 2 9 2010

OFFICE OF PETITIONS

In re Patent No. 7,337,116 :
Charlesworth et al. :
Issue Date: February 26, 2008: LETTER REGARDING
Application No. 09/985,543 : PATENT TERM ADJUSTMENT
Filed: November 5, 2001 : and
Atty Docket No. 01263.001500. : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is in response to the COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT filed April 4, 2008. Pursuant to their duty of good faith and candor to the Office, patentees disclose incorrect days accorded for patent term adjustment.

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

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **six hundred thirty-two (632)** days.

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.

On February 26, 2008, the above-identified application matured into U.S. Patent No. 7,337,116, with a revised Patent Term Adjustment of 655 days. It is noted that the instant candor letter was filed within 2 months of the date the patent issued. Patentees direct the Office's attention to two papers filed by patentees after the mailing of the notice of allowance: (1) an

amendment under 1.312 on February 3, 2005, and (2) an information submission filed September 12, 2006. Patentees also request review of the 106-day reduction associated with their filing of a response on October 19, 2007.

Patentees are correct. Pursuant to 37 CFR 1.704(c)(10), a reduction is warranted for the filing of both papers. 37 CFR 1.704(c) provides, in relevant part, 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:
>
> (10) 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; and

The amendment filed February 3, 2005 was responded to more than four months later on February 25, 2007. However, this period of applicant delay overlaps to an extent with the period of delay for an information submission filed on January 25, 2005. A period of reduction of the maximum period of 120 days was already entered by the Office for the submission on January 25, 2005. Considering a maximum period of reduction of 120 days for the filing of the amendment and overlap, entry of an additional reduction of 9 days for the amendment filed February 3, 2005 is warranted. (Had the amendment been properly considered in the computer calculation of PTA, a period of 120 days would have been entered for the later-filed amendment and then a period of reduction of 9 days would have been entered for the information submission for the non-overlapping period beginning on January 25, 2005 and ending on February 2, 2005).

Further, entry of a period of reduction of 120 days is warranted for the filing of the information submission on September 12, 2006. The submission was responded to by the Office more than four months later on November 13, 2007.

Finally, entry of a period of reduction of 106 days for the filing of a response on October 19, 2007 is not warranted. Patentees are correct that any applicant delay should be calculated based on the mailing of the notice on September 6, 2007. As patentees' response was filed within the three-month period set forth in 37 CFR 1.704(b), there was no applicant delay.

Periods of reduction of 120 days and 9 days have been entered, and a period of reduction of 106 days has been removed.

In view thereof, the patent should have issued with a revised patent term adjustment of 632 days.

The application 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 **six hundred thirty-two (632)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,337,116 B2

DATED : **February 26, 2008** **DRAFT**

INVENTOR(S) : Charlesworth 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 655 days

Delete the phrase "by 655 days" and insert – by 632 days--

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

MAIL

MAR 25, 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CLARK & BRODY
Suite 600
1750 K Street, NW
Washington DC 20006

In re Application of:
George G. Strickland
Application No.: 09/985,552
Filed: November 5, 2001
For: TELEPHONE AND SYSTEM FOR DIRECT DELIVERY OF INFORMATION

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment filed November 21, 2003, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely and effective manner to the final Office action mailed February 12, 2003. A Notice of Abandonment was mailed October 20, 2003.

In support of the petition, petitioners provide a copy of a certificate of facsimile transmission, a copy of the request for continued examination, and a copy of the response which accompanied the request.

A review of the file record reveals that Applicant's request for continued examination (filed in the USPTO via facsimile), has since been matched with the application. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn. The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

The application file is being forwarded to TC 2600's Technical Support Staff for processing the Request for Continued Examination and charging the deposit account for the RCE fee as directed. From there, the application will be forwarded to the examiner to be processed in appropriate turn.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 02 2003

OFFICE OF PETITIONS

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington VA 22201

Applicant: Widegren et al.
Appl. No.: 09/985,573
Filing Date: November 5, 2001
Title: MEDIA BINDING TO COORDINATE QUALITY OF SERVICE REQUIREMENTS FOR MEDIA FLOWS IN A MULTIMEDIA SESSION WITH IP BEARER RESOURCES
Attorney Docket No.: 4009-6
Pub. No.: US 2002/0120749 A1
Pub. Date: August 29, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed via facsimile transmission on November 19, 2002 for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because paragraph 19 was improperly combined with paragraph 19; paragraphs 26 and 27, and paragraphs 41 and 42 should have been combined, and the first paragraph of the specification (which relates to related applications) was improperly omitted from the published patent publication. It is noted that the benefit claim in the second paragraph of the specification does not comply with 37 CFR 1.78, because it is not the first sentence following the title. Furthermore, if the priority information had not been recognized by the Office, then a petition under 37 CFR 1.78(a) and fee would have been required to correct the priority/benefit claim.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." The request for corrected publication received on November 19, 2002, was not timely filed under 37 CFR 1.221(b).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES 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

OBLON, SPIVAK, MCCLELLAND, MAIER &
NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 17 2003

OFFICE OF PETITIONS

In re Application of
Shoji Otaka
Application No. 09/985,595
Filed: November 5, 2001
Attorney Docket No. 215779US2SRD

ON PETITION

This is a decision on the petition, filed June 16, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 14, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2817 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
09/985,598	11/05/2001	Jun Tan	DC01 (215051-00100)412626	4094

27160 7590 11/12/2003

PATENT ADMINSTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

EXAMINER	
CHERNYSHEV, OLGA N	
ART UNIT	**PAPER NUMBER**
1646	

DATE MAILED: 11/12/2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 15

Patent Administrator
Katten Muchin Zavis Rosenman
525 West Monroe Street
Suite 1600
Chicago, IL 60661-3693

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NOV 04 2003

OFFICE OF PETITIONS

In re Application of :
Jun Tan et al. :
Application No. 09/985,598 : ON PETITION
Filed: November 5, 2001 :
Attorney Docket No. DC01 (215051-00100)412626 :

This is a decision on the petition under 37 CFR 1.137(b) filed October 14, 2003, and supplemented on October 31, 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 October 24, 2002, which set a shortened statutory period for reply of One (1) month from the mail date of the Notice. A two (2) month extension of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 3, 2003.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Barbara E. Johnson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. However, if Barbara Johnson desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application file is being forwarded to Technology Center AU 1646 for further processing.

Telephone inquiries regarding 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

cc: Webb Ziesenheim Logsdon Orkin & Hanson
700 Koppers Building, 436 Seventh Avenue
Pittsburgh, PA 15219-1818

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO IL 60661-3693

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MAY 11 2006

OFFICE OF PETITIONS

In re Application of :
Tan, et al. :
Application No. 09/985,598 :
Filed: November 5, 2001 :
Attorney Docket No. 4303-030827 :

ON PETITION

This is a decision on the petition, filed February 21, 2006(certificate of mailing date February 17, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 26, 2005 non-final Office action. No response being received and no extensions of time being obtained, this application became abandoned on October 27, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted an amendment in reply to the July 26, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 26, 2005 non-final Office action, and the petition fee. Therefore, the petition is granted.

The address listed on the petition differs from the correspondence address of record. A courtesy copy of this decision is being mailed to petitioner. Any future correspondence regarding this application will be mailed to the address of record, unless a proper change of correspondence address request is filed

After the mailing of this decision the application will be forwarded to Technology Center AU 1649 for consideration of the amendment filed on February 21, 2006 (certificate of mailing date February 17, 2006).

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: GWEN R. WOOD, PH.D.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219-1845

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PILLSBURY WINTHROP SHAW
PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

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OCT 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Nuzhat Pathan et al	:	
Application No. 09/985,646	:	DECISION ON PETITION
Filed: November 5, 2001	:	
Attorney Docket No. 037003-0280731	:	

This is a decision on the petition under 37 CFR 1.182, filed June 5, 2008, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center AU 1644.

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

Karen Creasy

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
09/985,646	11/05/2001	1644	2662	037003-0280731	50	6

CONFIRMATION NO. 3880

27499
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

REPLACEMENT FILING RECEIPT

OC00000032630021

Date Mailed: 10/17/2008

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)

Nuzhat Pathan, San Diego, CA;
Kandasamy Hariharan, San Diego, CA;
Gary Braslawsky, San Diego, CA;
Nabil Hanna, Rancho Santa Fe, CA;

Power of Attorney: The patent practitioners associated with Customer Number 909

Domestic Priority data as claimed by applicant

This application is a CIP of 09/772,938 01/31/2001 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/985,646**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Use of CD23 antagonists for the treatment of neoplastic disorders

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

JUN 22 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Joseph W. Berenato, III
Liniak, Berenato, Longacre & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

In re Application of :
Hartley Moyes :
Application No. 09/985,673 :
Filed: November 5, 2001 :
For: METHOD OF MANUFACTURING A MOLDED :
DOOR SKIN FROM A FLAT WOOD COMPOSITE,
DOOR SKIN PRODUCED THEREFROM, AND
DOOR MANUFACTURED THEREWITH

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on March 3, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____.

☐ Certificate of Mailing/Transmission signed on _____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☒ Originally sent response filed February 10, 2004 has been found and matched with the application.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response and then to the examiner for prompt action.

SNM/mjz: 5/17/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/15/2006

TO SPE OF : ART UNIT 1600 (1655)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,045,499

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

***Ok to delete formulas in claims 1&2 as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

TERRY MCKELVEY, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1655
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

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

Paper No. 4-5

Dinesh Agarwal, P.C.
Law Office
Suite 330
5350 Shawnee Road
Alexandria VA 22312

In re Application of : C. Haala
Application No. 09/985,734
Filed: November 6, 2001
For: METHOD AND SYSTEM FOR OBSTRUCTING A PERSON FROM NEGOTIATING A TRANSACTION WITH ANOTHER PERSON, GROUP, OR ENTITY IN A POPULATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed January 11, 2002 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The claimed invention is directed to obstructing a person from conducting a transaction based on a portable data device and status, profile and/or biometric information. However, transactions per se do not equate with acts of terrorism. Transactions are not "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" as indicated above nor are they necessarily intended to intimidate a population or influence a government.

Although it can be said that preventing an individual from engaging in transactions will limit that individual's capability to engage in acts of terrorism, the method and system disclosed do not alter the individual's cash on hand, available credit or other finances. The manner of "obstructing" the transaction is not thoroughly detailed in the disclosure. The system and method do not directly control the inventory of goods or grant of access that the individual is seeking in the transaction. Implementation of the system and method and enforcement of the outcome appears to be up to the user. For example, a cash transaction with someone who, by choice or coercion, does not implement or enforce the outcome of the system or method is not addressed. Since terrorist acts can be conducted with a wide range of materials, unwavering diligence in both effective nationwide implementation of the system and method, and effective nationwide enforcement of the outcome of the comparison would be required over an equally wide range of private, retail and commercial transactions in order to ensure success. This is not fully addressed by the claims or the disclosure. Thus, further steps beyond the disclosure would be required to actually offset or nullify terrorism. 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.

Robert A. Weinhardt
Special Program Examiner
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce
703-305-9780

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Dinesh Agarwal, P.C.
Law Office
Suite 330
5350 Shawnee Road
Alexandria, VA 22312

MAILED

JUL 0 8 2002

Technology Center 2100

In re Application of: Catherine A. Haala
Application No. 09/985,734
Filed: November 6, 2001
For: METHOD AND SYSTEM FOR OBSTRUCTING A PERSON FROM NEGOTIATING A TRANSACTION WITH ANOTHER PERSON, GROUP, OR ENTITY IN A POPULATION

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

This is a decision on the petition, filed May 28, 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. The petition was supplemented by a filing submitted June 24, 2002.

M.P.E.P. §708.02(VIII) states that an applicant may be granted special status provided that the applicant:

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

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

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

(D) Submits one copy 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) 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 combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

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 Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DINESH AGARWAL, P.C.
LAW OFFICE
SUITE 330
5350 SHAWNEE ROAD
ALEXANDRIA VA 22312

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Catherine A. Haala :
Application No. 09/985,734 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No. US 1295/01 :

This is a decision on the petition, filed December 17, 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).

P titioner is advised that the issue fee paid on October 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2136 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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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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SEP 12 2003

OFFICE OF PETITIONS

Applicant: Terui et al.
Appl. No.: 09/985,737
Filing Date: November 6, 2001
Title: ELECTRON GUN AND A METHOD FOR USING THE SAME
Attorney Docket No.: 215891US-2
Pub. No.: US 2003/0085645 A1
Pub. Date: May 8, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on July 8, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication incorrectly printed the phrase "the apex angle of the tip portion of the electron emission cathode is 50-1000" instead of "the apex angle of the tip portion of the electron emission cathode is 50-100°" in paragraph 0008 and dependent claim 3.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error in the phrase "the apex angle of the tip portion of the electron emission cathode is 50-1000" instead of "the apex angle of the tip portion of the electron emission cathode is 50-100°" in paragraph 0008 and dependent claim 3 is an Office error, but it is a minor typographical error which is clearly understandable from reading the sentence and/or paragraph in which the term is used, as terms are not read in a vacuum. The phrase is written correctly at several other locations in the specification and since it is not possible for the angle to go to 1000, it is clearly a typographical error, which is clearly understandable from reading the specification and claims, as words are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The error in claim 6, is not an Office error, as claim 6 states "50 -100° C", which accurately depicts the text as originally filed and thus it is not eligible to be corrected by a corrected publication.

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

[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).

application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2879 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Firm of Peter V. D. Wilde
301 East Landing
Williamsburg, VA 23185

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Justin Che-I Chuang, et al.	:	
Application No. 09/985,775	:	ON PETITION
Filed: November 15, 2001	:	
Attorney Docket No. 003493.00033	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/094,933 filed March 31, 2005.

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

The application file is being referred to Technology Center 2600.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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APR 17 2006

OFFICE OF PETITIONS

In re Application of :
BEN-DOV et al :
Application No. 09/985,841 : DECISION ON PETITION
Filed: November 6, 2001 : TO WITHDRAW
Attorney Docket No. Serie 5588 426722000100 : 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 8, 2005.

The request is **APPROVED**.

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

The request was signed by Alex Chartove (# 31,942), on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with the Customer Number 31,227 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address (associated with customer number 40582) is the address indicated below.

A Notice of Non-Responsive Amendment communication mailed on March 29, 2006 requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Amelia Au at 571.272.7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: AIR LIQUIDE
2700 POST OAK BOULEVARD, SUITE 1800
HOUSTON TX 77056

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Paper No. 6

APR 2 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037-1420

In re Application of:
Greg Visalli et al.
Application No. 09/985,878
Filed: November 6, 2001
For: SYSTEM FOR AN OPEN ARCHITECTURE DEVELOPMENT PLATFORM WITH CENTRALIZED SYNCHRONIZATION

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 19, 2003.

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

The request filed March 19, 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

JRM

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

cc: Brad Aaron
AETHER SYSTEMS, INC.
11460 Cronridge Drive
Owings Mills, MD 21117

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WASHINGTON, D.C. 20231
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MAR 2 7 2003

Technology Center 2100

Paper No. 3

Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037-1420

In re Application of: Joseph Nardone, et al.)
Application No. 09/985,879)
Filed: November 6, 2001) **DECISION ON REQUEST FOR**
For: SYSTEM FOR A CONFIGURABLE) **WITHDRAWAL AS ATTORNEY**
OPEN DATABASE CONNECTIVITY)
CONDUIT)

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

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

The request is **GRANTED**.

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

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

cc: Brad Aaron
Aether Systems, Inc.
11460 Cronridge Drive
Owings Mills, MD 21117

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Paper No. 7

John W. Ryan
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, DC 20037

JUL 15 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Andrew HAMILTON, et al.
Application No.: 09/985,880
Filed: November 6, 2001
For: SYSTEM FOR A RUN-TIME ENGINE CAPABLE FOR PAGER CAPABLE REMOTE DEVICE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed March 19, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on April 25, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Ashok Mannava as the attorney of record of the instant application. The Power Of Attorney of April 25, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Ashok Mannava, et al.

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: Ashok K. Mannava
281 Murtha Street
Alexandria, VA 22304

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Nov-07

ASHOK K. MANNAVA
281 MURTHA STREET
ALEXANDRIA VA 22304

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NOV 26 2007

OFFICE OF PETITIONS

In re Application of :
Hamilton et al. :
Application Number: 09/985880 : ON PETITION
Filing Date: 11/06/2001 :
Attorney Docket Number: :
003636.0131 :

This is a decision in reference to the "PETITION TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT," filed on October 19, 2007.

The petition is **DISMISSED**.

The application became abandoned on August 6, 2006, for failure to timely file a response to the non-final Office action mailed on May 5, 2006, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 26, 2007.

Petitioners asserts the holding of abandonment should be withdrawn because the Office action mailed on May 5, 2006, was sent to an old correspondence address. Specifically, petitioners assert that a revocation and new power of attorney were filed prior to the mailing of the final Office action, but that the Office incorrectly sent the final Office action to the old address. Petitioner notes that the Office action Office action mailed on May 5, 2006, was returned as undeliverable on May 16, 2006.

A review of the record reveals that Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence Address was filed on February 21, 2006, requesting the correspondence address be changed to: Manelli Denison & Selter, PLLC, Attn: Willam H. Bollman, 2000 M Street, NW, Suite 700, Washington, DC 20016. The paper filed on February 21, 2006, is signed by Bruce White, and states that it is signed on behalf of the assignee of record of the entire interest, and that a statement under 37 CFR 3.73(b) is enclosed. However, a review of the papers received on February 21, 2006, reveals that no statement under 37 CFR 3.73(b) was filed with the Revocation and Power of Attorney filed on February 21, 2006.

37 CFR 3.71 states, in pertinent part:

> Prosecution by assignee.
>
> (a) Patents – conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
>
> . . .
>
> (c) Patents – Becoming of record. **An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.**
>
> (emphasis added)

37 CFR 3.73(b) states:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, 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. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the

> original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or
>
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).
>
> (2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:
>
> (i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or
>
> (ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

As the showing of record is that no statement under 37 CFR 3.73(b) statement was filed, the assignee did not establish itself as of record. Therefore, the revocation and power of attorney was not proper and could not have been entered, and did not operate as a proper change of correspondence address.

As such, the Office did not err in mailing the non-final Office action mailed on May 5, 2006, to the current address of record of: Ashok K. Mannava, 281 Murtha Street, Alexandria, VA 22304.

Although the USPTO attempts to notify parties as to defective papers in order to permit timely refiling, it has no obligation to do so.[1] Rather, it is the applicants who are ultimately responsible for filing proper documents.[2] That there was a delay in advising applicants that that the revocation and power of attorney filed on February 21, 2006, did not include the required statement under 37 CFR 3.73(b) is regretted, but, as noted above, part of applicants' assumed risk.

A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action

---

[1] See In re Colombo Inc., 33 USPQ2d 1530, 1532. (Comm'r Pat. 1994).

[2] Id.

was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[3] The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g. if the practitioner has a history of not receiving Office actions).

As such, the showing of record is that petitioner did not timely file a proper change of correspondence address, and that the Office action mailed on May 5, 2006, was not received because petitioner failed to timely file a proper change of correspondence address.

Furthermore MPEP 707.13 states,

> Returned Office Action
>
> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. Ex parte

[3] 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).

Gourtoff, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

As such, the showing of record is that the Office did in fact mail the Office action to the address of record. Rather, a current correspondence address was not provided because the revocation and power of attorney and change of correspondence address did not establish the right of the assignee to take action, and was therefore not acceptable.

The failure to file a proper change of correspondence address is an avoidable mistake. Withdrawal of the holding of abandonment is not warranted when an applicant makes an avoidable mistake.

As such, the failure to receive the Office action is the fault of petitioner and not that of the Office. As such, the petition to withdraw the holding of abandonment is dismissed.

It is noted that the Revocation of Power of Attorney New New Power of Attorney and Change of Correspondence Address filed on February 21, 2006, states that a Statement Under 37 CFR 3.73(b) is enclosed. As such, if petitioners can provide evidence that the Statement Under 37 CFR 3.73(b) was timely filed, with the revocation and power of attorney filed on February 21, 2006, petitioners may wish to consider filing a renewed petition to withdraw the holding of abandonment based on the fact that a proper revocation and power of attorney were filed on February 21, 2006.

Alternatively, petitioner may wish to consider filing a petition under 37 CFR 1.137(b), accompanied by the proper fee.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a proper reply to the outstanding Office action. As such, a copy of the Office action mailed on May 5, 2006, is enclosed for petitioner's assistance in preparing a reply. The reply must be submitted with the petition under 37 CFR 1.137(b). A copy of the petition form for filing a petition under 37 CFR 1.137(b) is also enclosed. Petitioner should note that the fee for filing a petition under 37 CFR 1.137(b) (small entity) is currently $770.00.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

The address in the petition is different from the correspondence address. A courtesy copy of this decision is being mailed to the

address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Office Action of May 5, 2006
Privacy Act Statement

Cc: MANELLI, DENISON & SELTER PLLC
2000 M STREET, NW 7TH FLOOR
WASHINGTON DC 20036-3307

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/985,880	11/06/2001	Andrew Hamilton	003636.0131	4508

7590 05/05/2006

ASHOK K. MANNAVA
281 MURTHA STREET
ALEXANDRIA, VA 22304

EXAMINER	
VO, TED T	

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 05/05/2006

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

Office Action Summary	Application No.	Applicant(s)	
	09/985,880	HAMILTON ET AL.	
	Examiner	Art Unit	
	Ted T. Vo	2191	

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *4-12,16-24 and 28-36* is/are allowed.

6)☒ Claim(s) *1-3,13-15 and 25-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ 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:

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)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 12/02/2005 entered by filing RCE on 02/21/06.

Claims 4-12,16-24 and 28-36 stand allowed.

Claims 1-36 remain pending in the application.

Response to Amendment

2. Applicants' amendment and arguments have been fully considered.

Regard to Applicant's arguments as pointing to MPEP 2131 and quotes of particularly case laws. Examiner recognized that Applicants' pointing is improper. In this reply, Applicants fail to point out the novelty presenting in the claims. The claims do not direct toward a particularly function, but merely recites many terms that can cover many aspects of the arts. Given typical examples:

"application" could be any executable file in a computer;

"run-time engine" can been read by a processor, by an operating system such as Windows, or a development toolkit, etc;

"Go method" can be read by a button click in any popup windows;

"Screen definition" is read by default setup of any image seen in computer Windows or of the Windows itself.

It should be noted that it is not necessary for a reference to document a feature that is already seen or included, common and known to a skilled artisan. Vie versa, it is not necessary for a patent application to document a well-known feature (e.g., Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379-80, 231 USPQ 81, 90 (Fed. Cir. 1986).

A typical application must conform to screen definition (seen in a standard windows such as resize/zoom) because it is necessary, and not need to be described by a skilled artisan.

As per Applications' mention in remarks p. 16: 1-6, Applicants clearly preempt the standard properties of "screen definition". As being already discussed, a typical application embedded, or within a Microsoft Windows can be resized and zoom (run-time). This feature must conform to or comply with a standard size of a computer screen, provided at compiled time before it becomes a run-time application. This could not be new in the art as seen in a CE Window toolkit (presenting in this action) where the CE Window toolkit shows property windows and allows screen definition parameters to be entered in the compiled time.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 13-15, 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft Corporation (hereinafter: Microsoft) "Microsoft Windows CE Toolkit for Visual Basic 6.0 Guided Tour", MSDN Library, 7-1999.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: Microsoft discloses,

"*A method for executing application programs, comprising:*

receiving at least one application program in a in a handheld mobile wireless client device (Windows CE is installed and run in a handheld client device. For example, see Figure 5, shows an application name "Project1" created by Visual basic and run in a Handheld PC Pro as a default Device);

activating said at least one application program in said handheld mobile wireless client device (It should be noted that "Project1" is only a default name; User who creates the "Project1" can rename this

application properly (e.g. "NorthwindCustomerInformatiuon"). See Figure 14, a toolkit that provides an application is registered in the file system of a "client device" such as Handheld PC Pro, so that when the "project1" can be carried under this toolkit. See page 4, "Starting the Windows CE project");

instantiating a run-time engine in said handheld mobile wireless client device (See Figure 14, it includes "run", "debug", i.e. "project1" (of Figure 5) can be run or debug by a run-time engine of the Handheld PC Pro); *and*

executing said at least one application program by said run-time engine in said handheld mobile wireless client device to create screen definitions with said at least one application program at run-time as if said screen definitions has been defined at compile time (See Figure 14, it provides a run engine "run" or "debug" as in the manner of compilation when a "new project" completely coded; moreover, the Toolkit included with "Setting the Project Properties" (See page 4) provides screen definition setting).

As per Claim 2: Microsoft discloses,

registering said at least one application program with an operating system of said handheld mobile wireless client device; (Figure 14 includes "File" menu. "File" menu is known as a common feature associated with an operating system of the device and used in standard Microsoft Windows (Windows is also an operating system), where programs/files/applications/ are registered in a hierarchical structure. An example to illustrate for registering is seen in Figures 1-2, or Figure 15);

and displaying an icon configured to represent said at least one application program in response to said registration" (This is referred as screen of the client device implemented with windows CE – See icons within/under "Name" in Figures 1-2).

As per Claim 3:

A method for executing application programs, comprising:

receiving at least one application program in a client device (For example, and application is located in "File" menu which might be downloaded from network, or created by a the toolkit. As seen page 4, "Starting the Windows CE Project", provides an Application program selected from "File" menu, or see Figure 5, "Project1, All Figures 16, 17, 18, represent "Application" already/within developed in the client device);

activating said at least one application program (Figure 14 provides activating an application);

instantiating a run-time engine (Figure 14 includes a run-time engine "Run", or "Debug" menu);

executing said at least one application program by said run-time engine (A project/application created within Figure 14 can be executed by "Run" or "Debug" menu);

registering a process identification corresponding to said activated said at least one application program (It is clearly that a project/application selected from "File" menu will be registered under this run/debug process); *and*

executing a GO method by said run-time engine (It is clearly that if a user select the "Run" menu, the predicated/registered project/application will be run under this engine. A typical example, if a user run the application and see en error, he can select "debug" menu which provide "Go" to run the program for debugging purpose).

As per Claims 13-14: The rejection of these claims is in the same reason as in Claims 1-2. See rationale addressed in Claims 1-2 above. It should be noted that a typical client device such as Handheld PC pro is constructed comprises at least a memory and a processor because of standardization of a computing device.

As per Claim 15: The rejection of the claim is in the same reason as in Claim 3. See rationale addressed in Claim 3. It should be noted that a typical client device such as Handheld PC pro is constructed comprises at least a memory and a processor because of standardization of a computing device.

As per Claims 25-26: The rejection of these claims is in the same reason as in Claims 1-2. See rationale addressed in Claims 1-2 above. It should be noted that a typical client device such as Handheld PC pro is constructed comprises at least a readable storage medium because of standardization of a computing device.

As per Claim 27: The rejection of the claim is in the same reason as in Claim 3. See rationale addressed in Claim 3. It should be noted that a typical client device such as Handheld PC pro is constructed comprises at least a readable storage medium because of standardization of a computing device.

Allowable Subject Matter

5. Allowable subject matter of Claims 4-12,16-24 and 28-36

Claims 4-12,16-24 and 28-36 are allowed because the independent Claims of these Claims are rewritten in independent form including all of the limitations of the base claim and any intervening claims in accordance to Allowable subject matter in the prior action.

Conclusion

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. 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).

Ted T. Vo
Primary Examiner
Art Unit 2191
April 28, 2006

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ASHOK K. MANNAVA
281 MURTHA STREET
ALEXANDRIA VA 22304

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MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Hamilton et al. : DECISION ON PETITION
Application Number: 09/985880 :
Filing Date: 11/06/2001 :
Attorney Docket Number: :
003636.0131 :

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

The petition is **GRANTED**.

This application became abandoned on August 6, 2006, for failure to timely file a response to the non-final Office action mailed on May 5, 2006, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 26, 2007. The petition to

---

[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 Director 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(d)).

withdraw the holding of abandonment filed on October 19, 2007, was dismissed on November 26, 2007.

Receipt of the amendment filed with the present petition is acknowledged.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is being referred to Technology Center Art Unit 2191 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/82

Cc:

WILLIAM H. BOLLMAN
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PTO/SB/82 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint the practitioners associated with the Customer Number: ☐

☐ Please change the correspondence address for the above-identified application to:

☐ The address associated with Customer Number: ☐

OR

☐ Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

I am the:

☐ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name			
Date		Telephone	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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JUN 30 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 10

In re application of : **DECISION ON PETITION**
Glen R. Cataline et al. : **TO MAKE SPECIAL**
Application No. 09/985,900 : **(INFRINGEMENT)**
Filed: November 6, 2001 :
For: SYSTEM AND METHOD FOR SELECTABLE FUNDING OF ELECTRONIC TRANSACTIONS

This is a decision on the petition under 37 C.F.R §1.102(d) to make the above-identified application special that was filed on June 6, 2003.

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

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed April 22, 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-0868

SNM/dxn: 6/19/03

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170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of
Caruba et al.
Application No. 09/985,901
Filed: November 6, 2001
Attorney Docket No. 2001P21137US

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 14, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 15, 2003.

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.

Petitioner may wish to note that the current computer system only allows the Office to enter two lines in an address prior to the street address. Therefore, the new address listed on the Change of Correspondence Address has been modified as shown in the address listed at the top of this decision.

Technology Center Art Unit 2878 and the examiner will be notified the application has been revived and will consider the amendment in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 14

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WASHINGTON DC 20007

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Masahiro Shiotani et al
Application No. 09/985,924
Filed: November 6, 2001
Attorney Docket No. 086142-0493

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)
:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional application, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application set forth in the amendment submitted July 28, 2003.

The petition is **Granted**.

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

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

The instant application was filed on November 6, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

---

[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).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

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

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

(3) the reference to the prior filed provisional application supplied in an application data sheet (ADS)37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application seeks acceptance of a claim for priority under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/121,917, filed February 26, 1999. Additionally, nonprovisional Application No. 09/513,187, filed February 25, 2000, was filed within twelve months of provisional Application No. 60/121,917, for which priority is now sought under the provisions of 37 CFR 1.78(a)(6). A reference to the prior- filed applications has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. §§120 and 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior applications. In order for the instant application to be entitled to the benefit of the prior applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 3654 for processing the amendment submitted July 28, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed nonprovisional Application No. 09/513,187, filed February 25, 2000, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of prior-filed provisional Application No. 60/121,917, filed February 26, 1999, and to consider the petition under 37 CFR 1.48 submitted with the instant petition on July 28, 2003.

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

ATTACHMENT : Corrected Filing Receipt

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)
6899230	2005-05-31	09985952	2001-11-06	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			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	/Stuart I. Smith/	Date (YYYY-MM-DD)	2009-08-11
Name	Stuart I. Smith	Registration Number	42159

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
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In re Patent No. 6899230
Issue Date: May 31,2005
Application No. 09985952
Filed: November 6,2001
Attorney Docket No. 053837-5001

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

This is a decision on the electronic petition, filed August 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID A. KALOW
KALOW & SPRINGUT LLP
488 MADISON AVENUE, 19TH FLOOR
NEW YORK, NY 10022

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APR 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Marcus Pfeifer et al :
Application No. 09/985,954 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No. 33766W064 :

This is a decision on the petition filed, November 3, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 21, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 22, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on November 3, 2006.

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

This matters is being referred to Technology Center AU 1764 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORTON J. ROSENBERG
SUITE 101
3458 ELLICOTT CENTER DRIVE
ELLICOTT CITY, MD 21043

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MAR 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Wen-Yen Lin et al :
Application No. 09/985,971 : NOTICE
Filed: November 7, 2001 :
Attorney Docket No. MR2663-30

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 the Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Michael J. Ward
D-377, AP6A
100 Abbott Park Road
Abbott Park, IL 60064-6008

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APR 0 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Brioni et al.
Application No. 09/985,974
Filed: November 7, 2001
Attorney Docket No. 6753.US.02

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 10, 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 above-identified application became abandoned on December 11, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to item (1), The instant petition was accompanied by a request for continued examination (RCE) under the provisions of 37 CFR 1.114. However, the filing of a RCE was improper since prosecution in the application had not closed. Prosecution in an application is closed when an application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application. Since the non-final Office action of September 10, 2002 did not close prosecution, the filing of an RCE was improper. Accordingly, the RCE filed on March 24, 2003 will not be processed

In view thereof, the $750 RCE fee will be refunded to petitioner's deposit account. The response required for a grantable petition to revive in this case must be either an Amendment that places the application in condition for allowance, a Request for Reconsideration, or a Continuing Application. See MPEP section 711.03(c).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $930 extension of time submitted with the petition on March 24, 2003 was subsequent to the maximum extendable period for reply, the extension of time is unnecessary. Accordingly, the $930 fee will be credited to petitioner's deposit account.

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

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22813-1450

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

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

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

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. 17

Michael J. Ward
D-377, AP6A
100 Abbott Park Road
Abbott Park, IL 60064-6008

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MAY 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Jorge D. Brioni et al. :
Application No. 09/985,974 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 6753.US.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application is being forwarded to Technology Center AU 1617 for further processing.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE, MION, ZINN
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington DC 20037-3213

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JAN 29 2008

OFFICE OF PETITIONS

In re Patent No. 6,713,763	:	
Issued: March 30, 2004	:	DECISION REGARDING PTA and
Application No. 09/985,995	:	NOTICE OF INTENT TO ISSUE
Filed: November 7, 2001	:	CERTIFICATE OF CORRECTION
Atty. Dkt. No.: Q66996	:	

This decision is in response to "PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154," filed April 28, 2004. This matter is being treated as an application for patent term adjustment under 37 CFR 1.705(d).

The above-identified application matured into U.S. Patent No. 6,713,763 on March 30, 2004. The patent issued with a PTA of 148 days. Patentees argue that the adjustment of 268 days was improperly reduced 120 days in connection with the "Statement of Substance of Interview," filed November 3, 2003.

As argued by patentees, the adjustment of 268 days was improperly reduced 120 days in connection with the "Statement of Substance of Interview" filed November 3, 2003. Such a statement is not deemed a failure to engage in reasonable efforts to prosecute within the meaning of 37 CFR 1.704(c)(10). *See, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001).

In view thereof, at the time of issuance, the patent was entitled to an adjustment of 268 days for Office delays, as argued by patentees.

Receipt of the required application for patent term adjustment fee of $200.000 is hereby acknowledged.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 268 days.

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

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

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,713,763 B2
DATED	:	March 30, 2004, 2004
INVENTOR(S)	:	Yoshitake, 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 148 days

Delete the phrase "by 148 days" and insert – by 268 days--

Day : Monday
Date: 1/28/2008

PALM INTRANET

Time: 12:05:07

PTA Calculations for Application: 09/985995			
Application Filing Date:	11/07/2001	PTO Delay (PTO):	268
Issue Date of Patent:	03/30/2004	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	120
Post-Issue Petitions:	0	Total PTA (days):	268
PTO Delay Adjustment:	120		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
29	01/28/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	120		
24	03/30/2004	PATENT ISSUE DATE USED IN PTA CALCULATION			
23	02/26/2004	RECEIPT INTO PUBS			
22	02/18/2004	APPLICATION IS CONSIDERED READY FOR ISSUE			
21	12/17/2003	ISSUE FEE PAYMENT VERIFIED			
20	11/07/2001	WORKFLOW - DRAWINGS FINISHED			
19	11/03/2003	MISCELLANEOUS INCOMING LETTER		120	19
18	01/08/2004	RECEIPT INTO PUBS			
17	12/17/2003	ISSUE FEE PAYMENT RECEIVED			
16	12/02/2003	WORKFLOW - FILE SENT TO CONTRACTOR			
15	10/02/2003	MAIL NOTICE OF ALLOWANCE	268		-1
14	09/30/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
13	09/24/2003	NOTICE OF ALLOWABILITY			
12	08/06/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	12/17/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
9	11/16/2001	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
8	01/24/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	11/07/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
6	11/07/2001	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
5	01/18/2002	APPLICATION DISPATCHED FROM OIPE			
4	01/17/2002	APPLICATION IS NOW COMPLETE			
3	11/16/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	11/08/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/07/2001	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.

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Mailed: JUL 12 2004

In re application of
Naoto Ikegawa et al.
Serial No. 09/986,005
Filed: November 7, 2001
For: RESIN MOLDINGS

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 16, 2003.

On November 29, 2002, a first office action was mailed by the examiner, rejecting all of the claims present in the application. Applicants responded to this office action with a response filed on April 18, 2003. A final rejection was then mailed on July 16, 2003. A response was filed by applicants to the final rejection on January 15, 2004. The response included a request to withdraw the finality of the final office action. An advisory action refusing entry of the amendment was mailed on February 20, 2004.

On March 10, 2004 the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the July 16, 2003 office action.

Applicants position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section (f) of Rule 181 states:

(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.

In the instant case, Applicants first requested a withdrawal of the finality on January 15, 2004. This was almost 6 months after final rejection. The instant petition was filed almost 8 months after the mailing of the final rejection. Both requests are clearly untimely. Accordingly, the petition to withdraw finality is **DISMISSED**.

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

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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)
6805957	2004-10-19	09986016	2001-11-07	

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	/Barry A. Edelberg/	Date (YYYY-MM-DD)	2009-08-11
Name	Barry A. Edelberg	Registration Number	31012

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6805957
Issue Date: October 19,2004
Application No. 09986016
Filed: November 7,2001
Attorney Docket No. NC 83072

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

This is a decision on the electronic petition, filed August 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2009 . 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

JUL 31 2002

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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PATENT AND TRADEMARK OFFICE

JUL 30 2002

RECEIVED: 8-5-02
OBLON SPIVAK McCLELLAND MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
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ARLINGTON VA 22202

In re Application of	: RESPONSE TO PETITION
Vierira, et al.	: UNDER 37 CFR 1.182
Application No. 09/908,888	: SEEKING SPECIAL
Filed: July 20, 2001	: TREATMENT OF DISCLOSURE
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure	: STATEMENTS, AND : DECISION ON PETITION : UNDER 37 CFR 1.183
Attorney Docket No. 211692US99	: SEEKING WAIVER OF : REQUIREMENTS UNDER : 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at:
http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

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TC Assignment Appendix
Bulk Filing List With TC Assignment

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
	9842735	1765
	9884981	1765
	9911702	1765
	9921910	1765
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	10124460	1765
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	09662390	1765
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By FAX: (703) 872-9005

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Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
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OBLON SPIVAK McCLELLAND MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

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MAY 08 2003
PATENT & TRADEMARK OFFICE

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

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different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
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Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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OBLON SPIVAK McCLELLAND MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

In re Application of
Vieira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is GRANTED IN PART to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

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Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS."[1] Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

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

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

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
	9911539	1725
	9911493	1743
	9832354	1753
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	9884981	1765
	9911702	1765
	9921910	1765
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By FAX: (703) 872-9005

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

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 26 2004

Richard L. Treanor
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:	:	
RAMDANI, *et al.*	:	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT
Application No. 09/986,034	:	
Filed: November 07, 2001	:	
Attorney Docket No.: 215878US99DIV	:	

This is a decision on the petition filed March 04, 2004, requesting withdrawal of the holding of abandonment of the above-identified application. A petition fee is not required.

The petition is **granted.**

The application was held abandoned for the applicant's apparent failure to timely respond to the Office action mailed July 30, 2003. A Notice of Abandonment was mailed on February 13, 2004.

Petitioner asserts that a response, including, *inter alia,* an election and a petition for a three-month extension of time, was timely filed in the U.S. Patent and Trademark Office (PTO) on December 22, 2003. To support this assertion, petitioner has submitted a copy of the response to the Office action and a copy of a return postcard that properly identifies and acknowledges receipt of the response by the United States Patent and Trademark Office (PTO) on December 22, 2003.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Additionally, the application file fee record reveals that a check for an extension of time fee was processed on December 30, 2003. The fee record also indicates that the mailroom date of the check is December 22, 2003. As such, the evidence indicates that the response was timely received in the PTO on December 22, 2003, but lost after receipt thereof.

For the above stated reason, the request is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 8

THOMAS A. O'ROURKE
WYATT, GERBER & O'ROURKE
99 PARK AVENUE
NEW YORK, NY 10016

COPY MAILED

FEB 18 2004

OFFICE OF PETITIONS

In re Application of :
Geoffrey Roy Fernie, et al. :
Application No. 09/986,050 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2004 and supplemented on February 4, 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 27, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 29, 2002.

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

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

cc: Thomas A. O'Rourke
Bodner & O'Rourke
425 Broadhollow Rd., #108
Melville, NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of :

CHRISTOPHER :
Application No. 09/986,057 : DECISION ON PETITION
Filed: November 7, 2001 : TO WITHDRAW
Attorney Docket No. 16847.002 : 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 22, 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 Robert Jones Worrall on behalf of all attorneys of record. All practitioners of record have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed January 12, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: PAUL F. CHRISTOPHER
312 LOUDOUN ST., S.W.
LEESBURG, VA 20175

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Paper 08242005

OLIFF & BERRIDGE, PLC.
P.O. BOX 19928
ALEXANDRIA, VA 22320

AUG 29 2005

In re Application of :
Peter M. GULVIN et al. : DECISION ON PETITION
Application No. 09/986,107 :
Filed: November 7, 2001 :
Attorney Docket No. 109180 :

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 24, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of January 14, 2004.

Petitioner states that the non-final Office action was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received. The petition is accompanied by a copy of the computerized docket record where the non-received Office action would have been entered had it been received and docketed.

A review of the written record indicates that the non-final Office action was returned to the Patent and Trademark Office by the law firm of Burns, Doane, Swecker & Mathis, LLP. Further, a review of the correspondence address of record does not show that the address has been changed to that of Burns, Doane, Swecker & Mathis, LLP. The correspondence address of record continues to be Oliff & Berridge, PLC. Moreover, the record does not show that the returned Office action was remailed.

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

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

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

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

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

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

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)
6653104	2003-11-25	09986119	2001-11-07	IMMU:001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Barbara A. McDowell/	Date (YYYY-MM-DD)	2008-03-13
Name	Barbara A. McDowell	Registration Number	31640

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. 6653104
Issue Date: November 25,2003
Application No. 09986119
Filed: November 7,2001
Attorney Docket No. 018733-1058

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

This is a decision on the electronic petition, filed March 13,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 13,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES 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

APPLIED MATERIALS, INC.
2881 SCOTT BLVD., M/S 2061
SANTA CLARA CA 95050

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JUN 2 6 2003

OFFICE OF PETITIONS

In re Application of
Gilad Almogy et al
Application No. 09/986,137
Filed: November 7, 2001
Attorney Docket No. 005426/02

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

This is a decision on the petition, filed May 21, 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.

Since this application is not in fact abandoned for the reason stated above, petitioner may request a refund of the petition fee by writing to the Office of Finance Refund Section. A copy of this **notice** should accompany the request.

[illegible] instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center Art Unit 2881.

Any inquiries concerning this decision may be directed to Karen Creasy at (703)305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MICHAEL A. MESSINA
MCDERMOTT, WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JUL 30 2007

OFFICE OF PETITIONS

In re Application of :
Masanori Gunji et al :
Application No. 09/986,140 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. P284090 T4HW-01S1386-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** 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 May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 18, 2006.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/986,140	**Applicant(s)** GUNJI ET AL.	
	Examiner James A. Fletcher	**Art Unit** 2621	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendment, by adding limitations such as ""wherein acording to the cancellation of the thumbnail image, the chapter manager restores position information of the video data to the chapter information recording" and "automatically canceling the chapter boundary information when the thumbnail image is canceled by means of an input section" rase new issues that require further consideration and/or search.

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JAN 14 2008

OFFICE OF PETITIONS

In re Application of :
Masanori Gunji et al :
Application No. 09/986,140 : DECISION GRANTING PETITION
Filed: November 7, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P284090 T4HW-01S1386-1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of May 17, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2621.

Karen Creasy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

Sughrue Mion Zinn
MacPeak & Seas PLLC
2100 Pennsylvania Avenue N W
Washington, DC 20037-3202

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APR 26 2005

OFFICE OF PETITIONS

In re Patent No. 6,765,225	:	
Hiroaki Yasuda	:	DECISION ON REQUEST
Application No. 09/986,152	:	FOR RECONSIDERATION OF
Filed: November 7, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. Q66868	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705: REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed August 17, 2004. Patentee requests that the patent term adjustment be corrected from the two hundred twenty-one (221) days indicated in the Issue Notification (and on the patent) to three hundred fourteen (314) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred fourteen **(314)** days.

On July 20, 2004, the above-identified application matured into U.S. Patent No. 6,765,225. The instant request for reconsideration filed August 17, 2004 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 221 days. Citing 1247 OG 111, patentees state that the initial determination of patent term adjustment of 314 should not have been reduced by 93 days for submittal of a "miscellaneous paper" after the Notice of Allowance, as the only paper filed after the mailing of the Notice of Allowance was the Comments on Examiner's Reasons for Allowance.

Patentees' argument is well-taken. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees that the filing after the mailing of a Notice of Allowance of a response to the examiner's reasons for allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10) *Clarification of 37 CFR* 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain *Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001). A review of the application record reveals that the reduction of 93 days was based on the filing after allowance of the filing of the "COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE" filed April 19, 2004. Thus, it is concluded that the patent term adjustment should not have been reduced by 93 days.

Furthermore, there were no other bases for reduction of the patent term adjustment.

In view thereof, the patent term adjustment indicated on the patent should have been three hundred fourteen **(314)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED FOURTEEN (314) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

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Paper No. 20

HUSCH & EPPENBERGER, LLC
190 CARONDELET PLAZA, SUITE 600
ST. LOUIS, MO 63105-3441

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Ryan Xue et al :
Application No. 09/986,213 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 41575/29337 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 3636 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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QUALCOMM, INC.
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of:
SIH, Gilbert, Christopher, et al.
Application No.: 09/986,222
Filed: October 22, 2001
Atty's Docket No.: 000276
Title: VELOCITY RESPONSIVE FILTERING FOR PILOT SIGNAL RECEPTION

DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed February 09, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response in a timely manner to the Notice Of Allowability (Form PTOL-37) mailed October 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on January 28, 2006.

On February 09, 2006, 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;[1] and (3) the required reply in the form of revised drawings responsive to the Notice Of Allowability. Accordingly, the response to the Notice Of Allowability mailed October 28, 2005 is accepted as being unintentionally delayed.

The application 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

[1] The statement in the petition for revival that "this application became abandoned unintentional" is construed as being the statement required by 37 CFR 1.137(b)(3), that is, 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." Applicant **must** notify this Office if this is **not** a correct interpretation of this statement.

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MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 W. MADISON STREET
CHICAGO IL 60661

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of :
Paul K. Whittingham, et al. :
Application No. 09/986,226 : DECISION ON PETITION
Filed: October 22, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 13347US02 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 10, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/965,359.

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.

It is noted that while the present petition includes a request to amend the application to include the reference under 37 CFR 1.78(a)(2)(i), the accompanying amendment does not. However, in view of the amendment filed December 19, 2005 and the present petition, all of the above requirements have been satisfied and 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 Sherry D. Brinkley at (571) 272-3204. 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 2854 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/986,226	10/22/2001	2854	1080	13347US02	65	27	4

CONFIRMATION NO. 4979

McANDREWS, HELD & MALLOY, LTD.
34th Floor
500 W. Madison Street
Chicago, IL 60661

CORRECTED FILING RECEIPT

OC000000020858820

OC000000020858820

Date Mailed: 10/17/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Paul Kenneth Whittingham, Essex, UNITED KINGDOM;
Patrick Tony Kenny, Lancashire, UNITED KINGDOM;
Mandy Jane Smith, Leicestershire, UNITED KINGDOM;

Power of Attorney:

Joseph Grass--19768
John Held Jr--21061
George McAndrews--22760
Ronald Larson--24478
Timothy Malloy--25600
Edward Remus--25703
William Wesley--26521
L Jarvis--27341
George Wheeler--28766
Herbert Hart III--30063

Domestic Priority data as claimed by applicant

This application is a CIP of 09/965,359 09/27/2001 PAT 7,117,211

Foreign Applications

If Required, Foreign Filing License Granted: 11/28/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/986,226

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ratioing algorithm for a label printing system using plates

Preliminary Class

101

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080416

DATE : April 16, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 09/986254

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:

Changes do not add new matter or change the scope of the claims.

SPE: /Mark Zimmerman/ Art Unit 2625

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 8

Townsend and Townsend and Crew
Two Embacadero Center
Eighth Floor
San Francisco, CA 94111-3834

COPY MAILED

JUL 14 2003

OFFICE OF PETITIONS

In re Application of :
William W. Anderson et al. :
Application No. 09/986,320 : DECISION GRANTING PETITION
Filed: November 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 18180.0150 :

This is a decision on the petition, filed June 5, 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 pubilcation country, the nonpublication request **before on the date a counterpart application is filed in an eighteen-month pubication 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 on the same date as the filing date of a corresponding application in a foreign country. Therefore, since the request to rescind was received on the same date as the filing date of a corresponding application in a foreign application resulting in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1300 is being credited to Deposit Account No. 19-5127 as authorized.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

APR 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Anderson, et al.

Application No. 09/986,320
Filed: November 08, 2001
For: PHOTONIC CONSTANT ENVELOPE RF MODULATOR

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20350 are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

CC: Mark J. Itri, Esq.
McDermott, Will & Emery
18191 Von Karman Avenue
Suite 400
Irvine, CA 92612

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MAR 1 1 2002
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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#5 RMS/DHM

#6

Hunton & Williams
1900 K Street, NW, Suite 1200
Washington, DC 20006-1109

MAR

In re Application of
Latham
Application No.: 09/959396
PCT No.: PCT/US00/05693
Int. Filing Date: 6 March 2000
Priority Date: 5 March 1999
Attorney Docket No.: 54719.000017
For: Use of Protein Conformation For The Protection And Release Of Chemical Compounds

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 24 October 2001.

BACKGROUND

This international application was filed on 6 March 2000 and claimed a priority date of 5 March 1999. The International Bureau transmitted a copy of the published international application to the United States Patent and Trademark Office on 8 September 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the thirty period for payment of the basic national fee in the United States expired as of midnight on 5 September 2001. This international application became abandoned with respect to the United States for failure to timely pay the required basic national fee.

On 24 October 2001, applicant filed the instant petition.

REVIEWED

DISCUSSION

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; (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 (c) of this section.

Regarding requirement (1), the petition is accompanied by the required reply in the form of the basic national fee.

Regarding requirement (2), the petition is accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an executed oath or declaration and payment of the surcharge under 37 CFR 1.492(e).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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EITAN PEARL LATZER & COHEN ZEDEK LLP
10 ROCKEFELLER PLAZA
SUITE 1001
NEW YORK, NY 10020

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Yehuda Hershkovits et al	:	
Application No. 09/986,452	:	ON PETITION
Filed: November 8, 2001	:	
Attorney Docket No. P-3864-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 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 4, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 5, 2005.

The power of attorney submitted on August 16, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2615 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Eitan Law Group
C/O LandonIP, Inc.
1700 Diagonal Road, Suite 450
Alexandria, VA 22314, USA 22314

Attachment: blank 37 CFR 3.73(b)

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEAM - SILICONES - 60SI
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Cruse, et al. :
Application No. 09/986,512 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. SIL-0007-4-DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice to File Corrected Application Papers" (Notice) mailed November 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 January 31, 2002. A Notice of Abandonment was mailed on November 6, 2003.

Please note, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

Furthermore, 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 file 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 (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

cc.
George M. Kaplan
Dilworth & Barrese, LLP
333 Earle Ovington Blvd.
Uniondale, NY 11553

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/22/05

Paper No.: _____

TO SPE OF : ART UNIT 2674

SUBJECT : Request for Certificate of Correction on Patent No.: 6816151132

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.**

SEE PAPER 22

Thank You For Your Assistance

D. Irvine
Certificates of Correction Branch
Tel. No. 703-308-9590

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:

1. Attorney, Agent or Firm should be corrected to read David L. Banner.

2. The request for correcting line 29-36 of claim 1 is denied because it will change the scope of the claim 1.

Patrick N. Edouard 11/30/05 #5

PATRICK N. EDOUARD
SUPERVISORY PATENT EXAMINER

SPE

2674
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BANNER DEVELOPMENT, INC.
P.O. BOX 8859
ENDWELL NY 13762

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MAR 17 2009

OFFICE OF PETITIONS

In re Patent No. 6,816,151	:	
Issue Date: November 9, 2004	:	
Application No. 09/986,591	:	DECISION ON PETITION
Filed: November 9, 2001	:	UNDER 37 CFR 1.378(b)
Attorney Docket No. TD-101	:	
Patentee: Terry Dellinger	:	

This is a decision on the petition under 37 CFR 1.378(b), filed December 29, 2008, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued November 9, 2004. The first maintenance fee could have been paid from November 9, 2007, through May 9, 2008, or with a surcharge during the period from May 10, 2008 through November 9, 2008. Accordingly, the patent expired at midnight November 9, 2008, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner states that the delay in payment of the first maintenance fee was unavoidable since the mailed payment was returned to sender.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

While petitioner acknowledges that he was aware of the maintenance fee due and attempted to pay it, the petition does not indicate that steps were taken to ensure payment of the fee. Here, the payment of the maintenance fee attempted on Monday, November 10, 2008 was mailed to the wrong address even though the correct address was available. The correct address was published as a Notice in the *Official Gazette* of the USPTO on December 25, 2007 and was available since then on the USPTO website, www.uspto.gov. The record does not show how the incorrect address was used despite the exercise of due care. A renewed petition should explain the steps taken to ensure payment of the fee, including the efforts expended in obtaining the mailing address, and how petitioner was "unavoidably" prevented from making the maintenance fee payment.

Petitioner should also note that since the maintenance fee was proffered within 24 months of the date of expiration date of the patent (i.e.: prior to November 9, 2010), he has an alternate remedy under the unintentional provisions of 37 CFR 1.378(c) which does not require a showing of the delay in timely paying the maintenance fee in order to reinstate the patent. This option is available if the delay in payment of the fee due was actually "unintentional" such that payment was not delayed as a result of petitioner's intentional choice to pay other expenses rather than the fee due. In this case, the $700 already submitted would be applied to the $1,640 fee owed under 37 CFR 1.378(c), leaving a balance due of $940. A separate petition for this option may be filed using form PTO/SB/66, which is available at the USPTO website www.uspto.gov.

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 Christopher Bottorff at (571) 272-6692.

David Bucci
Petitions Examiner
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
www.uspto.gov

BANNER DEVELOPMENT, INC.
P.O. BOX 8859
ENDWELL NY 13762

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MAY 0 1 2009

OFFICE OF PETITIONS

In re Patent No. 6,816,151	:	
Issue Date: November 9, 2004	:	
Application No. 09/986,591	:	DECISION ON PETITION
Filed: November 9, 2001	:	UNDER 37 CFR 1.378(c)
Attorney Docket No. TD-101	:	
Patentee: Terry Dellinger	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 3, 2009, to accept an unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 9, 2008 for failure to pay the 3½ 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 Christopher Bottorff at (571) 272-6692.

The patent file is being forwarded to Files Repository.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

MARY-ELIZABETH BUCKLES ESQ
REED SMITH LLP
1301 K STREET NW
EAST TOWER - SUITE 1100
WASHINGTON DC 20005-3317

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Ho, et al. :
Application No. 09/986,633 : DECISION ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. :
002547/20118/div2

This is a decision on the petition filed March 25, 2002, to accord the above-identified application a filing date of November 9, 2001, with Figures 1A and 1B of the drawings as a part of the original disclosure.

Application papers in the above-identified application were filed on November 9, 2001. However, on January 23, 2002, the Initial Patent Examination Division mailed a "Notice to File Corrected Application Papers". This Notice informed applicant that he had to submit substitute drawings and a compliant computer readable form (CFR) of the Sequence Listing. In addition, the Notice informed applicant that Figures 1A and 1B of the drawings appeared to have been omitted.

In response, on March 25, 2002, applicant filed the present petition to accord a filing date of November 9, 2001, with Figures 1A and 1B as part of the original disclosure. Applicant asserted that Figures 1A and 1B were with the application as originally filed on November 9, 2001. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "20 Sheets of Drawings" as enclosed, bearing a United States Patent and Trademark Office date-stamp of November 9, 2001, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee will be refunded to petitioner under separate cover.

Receipt of the substitute drawings and the CFR, filed with the instant petition, is acknowledged and made of record.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of November 9, 2001, using the application papers received in the Office on that date and Figures 1A and 1B resupplied on petition filed March 25, 2002. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at 703-305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6803212
Issue Date: October 12,2004
Application No. 09986633
Filed: November 9,2001
Attorney Docket No. 002547/20118/DIV2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 27,2008 ,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 27,2008 . 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)
6803212	2004-10-12	09986633	2001-11-09	01-523-US-D2

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	/Frederick H. Colen/	Date (YYYY-MM-DD)	2008-10-24
Name	Frederick H. Colen	Registration Number	28061

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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAY 27 2003

UR
PAPER NO. 7

In re Application of
Ali Rusta-Sellehy et al.
Serial Number: 09/986,636
Filed: November 09, 2001
For: CHEMICAL HYDRIDE HYDROGEN GENERATION SYSTEM AND FUEL CELL STACK INCORPORATING A COMMON HEAT TRANSFER CIRCUIT

DECISION ON PETITION UNDER M.P.E.P. 708.02,VI

This is in response to the petition filed April 29, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bereskin and Parr
Scotia Plaza
40 King Street West- Suite 4000 Box 401
Toronto, ON M5H 3Y2
CANADA

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

UR
PAPER NO. 6

MAY 20 2003

In re Application of :
Xuesong Chen et al. :
Serial Number: 09/986,637 : DECISION ON
Filed: November 09, 2001 : PETITION UNDER
For: METHOD AND APPARATUS FOR GENERATING:
HYDROGEN INSIDE OF A FUEL CELL : M.P.E.P. 708.02, VI

This is in response to the petition filed April 29, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is **GRANTED.**

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bereskin and Parr
Scotia Plaza
40 King Street West- Suite 4000 Box 401
Toronto, ON M5H 3Y2
CANADA

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

HOWISON, THOMA & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of
Roehrs, *et al.*
Application No. 09/986,639
Filed: November 6, 2001
Attorney Docket No. FBSI-25,939

DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the June 11, 2002 petition under 37 C.F.R. §1.47(a).

Applicant filed the above-identified application on November 6, 2001. However, application lacked a properly executed declaration as required by 37 C.F.R. §1.53. Accordingly, on November 28, 2001, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts (hereinafter "the notice") to the address of record.[1] The notice set a two month deadline for responding, running from the mail date of the notice.

Petitioner filed his response to the notice (which included a petition for a four month extension of time and payment of all outstanding fees) on June 11, 2002.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the OIPE for further processing under rule 1.47(a).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-5593

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: HOWISON, THOMA & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

[1] Also missing were the filing fee, additional claim fees, and proper drawings.

mim

sector $

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Sture ROOS

Serial No. 09/986,645

Filed: November 9, 2001

For: CIRCUIT BOARD ASSEMBLY

OIPE JAN 28 2002 PATENT & TRADEMARK OFFICE

Attention: Application Branch

Atty. Dkt. 2483-38

Date: January 28, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

The attached completes filing of the above-identified patent application:

☒ Signed Rule 63 Declaration alone, ☐ Copy of Declaration from prior application alone, OR

☐ Signed Declaration plus attached copy of originally filed specification/drawings.

☒ **NOTICE TO FILE MISSING PARTS OF APPLICATION FILING DATE GRANTED** form.

☒ Record the attached assignment and return to the undersigned.

☒ Attached is a Power of Attorney.

☐ Priority is hereby claimed under 35 U.S.C. § 119 based on the following foreign applications:

Application Number	Country	Day/Month/Year Filed
0004161-6	Sweden	13 November 2000

respectively.

☒ Certified copy(ies) of foreign application(s) is/are attached.

☐ Certified copy(ies) filed on _____ in prior application no. _____, filed _____.

☐ Applicant claims "small entity" status. ☐ "Small entity" statement attached.

☐ Please enter the attached and/or below preliminary amendment **prior** to calculation of filing fee.

☐ Also attached: ☐ **Information Disclosure Statement**; ☐ **Nucleotide and/or Amino Acid Sequence Submission**; ☐ **Other:**

Fees due are calculated below:

Basic filing fee						$	740.00
Total Effective claims	10	- 20 =	0	x $	18.00	$	0.00
Independent claims	2	- 3 =	0	x $	84.00	$	0.00
If any proper multiple dependent claims now added for first time, add $280.00 (ignore improper)						$	0.00
					FILING FEE	$	740.00
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) ($110.00/1 month; $400.00/2 months; $920.00/3 months; $1440.00/4 months)						$	0.00
Surcharge ($130.00) if Declaration or filing fee first now submitted						$	130.00
English translation of specification and claims ($130.00)						$	0.00
					FIRST SUBTOTAL	$	870.00
If "small entity," enter half (½) of subtotal and subtract						-$	0.00
					SECOND SUBTOTAL	$	870.00
Assignment Recording Fee ($40.00)						$	40.00
					TOTAL FEE DUE	$	910.00
					Check enclosed (Pre-Bill)*	$	910.0
					Check enclosed (non Pre-Bill)*	$	
					TOTAL FEE ENCLOSED	**$**	**910.00**

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100
JRL:mm

NIXON & VANDERHYE P.C.
By Atty: John R. Lastova, Reg. No. 33,149

Signature: John R. Lastova

597045

OIPE JC85 JAN 28 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/986,645	11/09/2001	Sture Roos	2483-38

CONFIRMATION NO. 5605

FORMALITIES LETTER

OC000000007124684

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington, VA 22201

Date Mailed: 11/27/2001

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).*
- 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 $ 870.**

A copy of this notice MUST be returned with the reply.

BTT

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

01/30/2002 MBERHE 00000016 09986645

01 FC:102 740.00 DP
02 FC:105 130.00 DP

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

MAILED

JUN 29 2010

OFFICE OF PETITIONS

Applicant: Thomas Dean Robbins	:	DECISION ON REQUEST FOR
Patent Number:Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 09/986,662	:	WYETH
Filed: November 19, 2001	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant 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.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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SEP 05 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street NW
Washington, DC 20037-1526

Paper No. 7

In re application of : **DECISION ON PETITION**
Bart Kavanaugh : **TO MAKE SPECIAL**
Application No. 09/986,670 : **(ACCELERATED EXAMINATION)**
Filed: November 9, 2001
For: SYSTEM FOR FUNDING, ANALYZING AND MANAGING LIFE INSURANCE POLICIES FUNDED WITH ANNUITIES

This is in response to the petition filed on January 14, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM: 8/31/02

THE SPE/EXAMINER NEEDS TO FILL OUT THE FOLLOWING PRIOR TO A DECISION BEING MADE ON THE PETITION TO MAKE SPECIAL

☒ THERE IS NO RESTRICTION/ELECTION REQUIRED IN THIS CASE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS ELECTED WITHOUT TRAVERSE

☐ THERE IS A RESTRICTION/ELECTION REQUIRED AND THE ATTORNEY HAS REFUSED TO ELECT WITHOUT TRAVERSE (MAKE SURE ATTORNEY KNOWS THAT HIS PETITION TO MAKE SPECIAL WILL BE DENIED IF HE REFUSES TO ELECT OR IF HE ELECTS WITH TRAVERSE)

PLEASE RETURN THE CASE ASAP TO:

STEVEN MEYERS **CPK5-8T06**

(UNDER NO CIRCUMSTANCES SHOULD AN OFFICE ACTION BE ISSUED PRIOR TO THE PETITION BEING DECIDED)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

COPY MAILED

OCT 0 3 2005

OFFICE OF PETITIONS

In re Patent No. 6,866,804 :
Issue Date: March 15, 2005 :
Application No. 09/986,675 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 2001-1664 :

This is a decision on the petition filed on June 14, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Petitioners did not submit a request for a certificate of correction (accompanied by the fee set forth in 37 CFR 1.20(a)) with the present request pursuant to 37 CFR 3.81(b). Accordingly, the request is **dismissed** without prejudice upon the filing of a renewed petition under 37 CFR 3.81(b), including a request for a certificate of correction and a $100.00 fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

[1] *See* Official Gazette of June 22, 2004.

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Patent No. 6,866,804 :
Issue Date: March 15, 2005 :
Application No. 09/986,675 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 2001-1664 :

This is a decision on the renewed request under 37 CFR 3.81(b), filed October 31, 2005, to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The request is **granted**.

The application file is being forwarded to the Certificate of Correction Branch to issue the Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch.

Christina Tartera Donnell

Christina Tartera Donnell
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)
6743438	2004-06-01	09986709	2001-11-09	31708-US-CNT[2]

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	/Sheng-Hsin Hu/	Date (YYYY-MM-DD)	2009-01-12
Name	Sheng-Hsin Hu	Registration Number	50328

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. 6743438
Issue Date: June 1,2004
Application No. 09986709
Filed: November 9,2001
Attorney Docket No. 021480-679

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 12,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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NOV 15 2004

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/986,743 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 740756-2378 :

This is a decision on the petition, filed October 25, 2004, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 27, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In Re Application: :
ERICSON, PETTER, et al :
Appl No. 09/986,762 : WITHDRAW FROM ISSUE
Filed: November 9, 2001 : FEE PAID
Title: **RECORDING AND COMMUNICATION** :
OF HANDWRITTEN INFORMATION :

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(b)(1).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Patrick Edouard 571-272-7603.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Leo Boudreau
Acting, Director TC 2600
Communications

Cc: Office of Publications
Patent Clerk - ST-08C15
Supervisory Correspondence - ST-08C15

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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GREENBLUM & BERNSTEIN
1950 ROLAND CLARKE PLACE
RESTON VA 20191

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MAY 30 2006
OFFICE OF PETITIONS

In re Application of :
Shinkichi Ikeda :
Application No. 09/986,826 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. P21688 :

This is a decision on the petition, filed May 24, 2006, and supplemented on May 25, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

RONALD J. KISICKI
JAECKLE FLEISCHMANN & MUGEL
39 STATE STREET, SUITE 200
ROCHESTER, NY 14614-1310

COPY MAILED

OCT 2 1 2003

OFFICE OF PETITIONS

In re Application of
Cyrus Varan
Application No. 09/986,832
Filed: November 13, 2001
Attorney Docket No. 91350.106803

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. This is in response to the Small Entity filed October 6, 2003.

The petition under 37 CFR 1.137(b) is **GRANTED.**

The Small Entity status has been **ACCORDED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 8, 2003.

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 $665.00 extension of time submitted with the petition on October 6, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 3611.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE C. Chan

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/13/06

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/986,892 Patent No.: 6887204

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**.

SEE COL. 1

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

Christina Chan 1644

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2001

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
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MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-5-02
Type of Resp(s):
Due Date(s):

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MAY 08 2003
PATENT & TRADEMARK OFFICE

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MAY 12 2003
TECHNOLOGY CENTER 2800

In re Application of
Vierira, et al.
Application No. 09/908,888
Filed: July 20, 2001
For: Fabrication Of A Wavelength Locker Within A Semiconductor Structure
Attorney Docket No. 211692US99

: RESPONSE TO PETITION
: UNDER 37 CFR 1.182
: SEEKING SPECIAL
: TREATMENT OF DISCLOSURE
: STATEMENTS, AND
: DECISION ON PETITION
: UNDER 37 CFR 1.183
: SEEKING WAIVER OF
: REQUIREMENTS UNDER
: 37 CFR 1.98

This is a response to a petition under 37 CFR 1.182 filed on April 12, 2002 and supplements filed on July 1, 2002 and on July 12, 2002. The § 1.182 petition requests special treatment of disclosure statements filed pursuant to 37 CFR 1.98. Additionally, the petition requests waiver of the rules which waiver is treated as a request under 37 CFR 1.183, for relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98. The request for special treatment and waiver are made in view of the need to file multiple applications relating to different aspects of a particular invention. The § 1.182 petition also contains a request seeking permission to submit prior art submissions on compact disc and the establishment and searching of an Official classification(s) based on the prior art submission. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 provision which requires filing paper copies of references in each of many related applications where the references are being cited by Petitioner.

The petition under 37 CFR 1.182 requesting special treatment of disclosure statements, and the petition under 37 CFR 1.183 regarding the submission of a reduced number of paper copies of IDS references is **GRANTED IN PART** to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Special Treatment
- Part III. Petition Under 37 CFR 1.183 - Paper Copies
- Part IV. Summary
- Part V. Further Correspondence

Part I. Background

The instant application filed under 35 U.S.C. 111 is one of about 330 U.S. applications (either filed or to be filed) relating to

different aspects of an invention listed in the July 1, 2002 supplement to the petition. An appendix prepared by Technology Center 2800 indicates approximately 300 of the applications have been classified for examination in Technology Center 2800. The balance of about 30 applications are in five other Technology Centers. The July 12, 2002 supplement to the petition indicates that an Information Disclosure Citation List has in excess of 400 reference citations.

Petitioner's submission of an Information Disclosure Statement is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98.

Part II. Petition Under 37 CFR 1.182 - Special Treatment

The petition requests the establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

As is the case with all search Digests, their creation and usefulness is continually evaluated. The Office will create and place appropriate references in Digests as they are discovered. The Office will not commit to placement of each IDS citation, made in all of the bulk filing applications, in any Digest(s) as the particular relevancy of the citations at this time is uncertain because petitioner has supplied no explanation of any of the citations. The Office will not require that any digest(s) created be searched for each of the bulk filing applications as the appropriate search for any particular application is within the determination and discretion of individual examiner based on the claim(s) of that application.

The petition also mentions the submission of additional copies of the references on compact disc for the examiner's convenience which appear to be courtesy copies. Courtesy copies will not be made part of the Official record of any application and cannot be relied upon for meeting any requirement for the submission of an information disclosure statement. There is insufficient information in the petition concerning the data formats and software requirements to accord the compact discs any other status. Further, as discussed below, the Office has a procedure for electronically submitting citations without paper copies for an Information Disclosure Statement. Hence it is not clear why relief is required under § 1.182. In view of the relief granted below, and that no specific action is requested concerning the compact disc submission, no further discussion of the compact discs is required in this decision.

Petition under § 1.182 is Dismissed.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP 609, pages 600-118 and 600-119.

Paper copies: Petitioner notes that the instant application is one of about 330 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each citation brought to the attention of the Office in regard to the instant individual application, the "holding" application, not be required to be submitted in each related "bulk filing" application. Rather, it is requested that three complete sets of paper copies be permitted to be filed as a substitute for filing in each application.

Rather than be required to submit, via a paper copy, 400 reference in each of 330 applications, Petitioner seeks to have:

(1) Three complete sets of paper copies of each IDS citation submitted;

(2) One application (the instant application) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of U.S. patents to be submitted in only the "holding" application;

(3) The other related pending U.S. applications, hereafter referred to as the "bulk filing" applications, be exempt from containing a paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, a copy of the Form 1449 (or equivalent). The petition does not indicate whether the paper references that are to be submitted as a numbered compendium, which numbering will correspond to the numbering in a PTO-1449 form.

(4) The information supplied via the bulk filing IDS will be updated approximately monthly.

Once past the initial IDS submission, the petition proposes the waiver to apply to updates.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies of the references), the petition does not address how upon allowance the instant holding application will be treated. Whether the application can remain as the holding application without a suspension of action is not addressed. An alternative not discussed in the petition is that an alternate application may be designated as the holding application.

Termination: Petitioner does not seek a specific right of termination. Termination by the Office is to be by written notice to the attorney giving a 2 month period. Termination by Petitioner is to be by returning to compliance with 37 CFR § 1.98. The Office will accept and specifically reserve the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Termination by Applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

Different Technology Centers: It appears from the petition that Petitioner intends to cite every reference cited in any of the 330 applications in every other application. No references will be omitted because they are less relevant or cumulative of those already of record in a particular application. At least 30 of the applications are of such divergent technologies that they are in 5 technology centers outside Technology Center 2800. The applications outside Technology Center 2800 will be examined in areas without convenient access to the paper copies in Technology Center 2800. The 5 other technology centers have requested more access to the paper copies than the relief granting this petition for all 330 applications will afford. It is not clear from the petition why citing every reference in every application when they are in such diverse technologies is necessary or required by § 1.56. Relieving petitioner of the burden of filing paper copies in applications outside Technology Center 2800 will create an additional burden on the examiners of those applications. It is also possible for applicant to comply with 37 CFR 1.98 for U.S. Patents and Patent application publications by submitting references via "e-IDS.[1]" Hence it appears that petitioner has not demonstrated why a waiver for those applications filed outside Technology Center 2800 is necessary.

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicant be spared the necessity of submitting duplicative paper copies of U.S. patents in over 300 applications, but also the Office would benefit from not having to handle and store the duplicative sets of copies. While there may be some negative effects from the Office's point of view in terms of making the copies available to different examiners handling the various applications, on balance, there is seen to be sufficient benefit to justify waiver in this instance for the applications filed in Technology Center 2800. With respect to those applications being examined outside

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[1]The instructions for submitting an e-IDS can be downloaded at: http://www.uspto.gov/ebc/efs/downloads/documents/EFSePAVE_April23.pdf.

Technology Center 2800, on balance, the burden on petitioner is substantially less to provide an additional paper copy for each application with significantly less benefit to the Office waiving the requirement. Further with respect to other 30 applications the need to submit these references has not been established nor has petitioner addressed alternative methods of compliance.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below.

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing applications examined in Technology Center 2800 provided that the following 9 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) Each (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the instant holding application.

4) A copy of this Decision is filed in each bulk filing application for which waiver is requested;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does

not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant holding application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications, or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) There will be no waiver of any aspects of 37 CFR 1.98 in any application after allowance or final rejection of that application.

9) The copies will be submitted as a compendium with the reference numbering in the Form 1449 corresponding to the presentation of the references in the compendium.

Part IV. Summary

The petition under 37 CFR 1.182 requesting special treatment by creation of special digests and accepting compact disc submissions is dismissed because there is no showing that the relief granted below under 37 CFR 1.183 is not sufficient for compliance with 37 CFR 1.56.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted for those applications examined in Technology Center 2800, however, the following is not agreed to:

- the waiver of supplying a paper copy of each reference in applications examined outside Technology Center 2800.
- the creation of Official search classifications and the mandatory search thereof.
- The establishment of an Official search classification containing all of the references cited in the IDS and that the examiners be required to search that classification.

Part V. Further Correspondence

Any correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

TC Assignment Appendix
Bulk Filing List With TC Assignment

Docket Number	Application #	Art Unit
	10125540	1631
	9984471	1641
	9624877	1725
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Docket Number	Application #	Art Unit
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	9911420	3663
	09607722	3736

By FAX: (703) 872-9005

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to Michael L. Lewis at (703)306-5585.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: TC Assignment Appendix

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Paper No.

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW, YORK NY 10112

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OFFICE OF PETITIONS

NOV - 5 2003

ON PETITION

In re Application of
Kiyoshi Arakawa
Application No. 09/986,918
Filed: November 13, 2001
Attorney Docket No. 862.C2435

This is a decision on the petition under 37 CFR 1.313(c)(2), filed on October 29, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 6, 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 application will be forwarded to Technology Center AU 2851 for further processing of the request for continued examination under 37 CFR 1.114.

RECEIVED
NOV - 6 2003

Frances Hicks for
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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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Rudi Koelle, et al. :
Application No. 09/986,995 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 225/50556 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed October 28, 2004, which set a shortened statutory period for reply of three (3) months. A one-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed March 16, 2005 indicating that the reply filed on February 28, 2005 failed to place the application in condition for allowance. Accordingly, the application became abandoned on March 1, 2005.

The unentered amendment filed February 28, 2005 will be considered the submission required under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to Technology Center 3600, Art Unit 3676 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Satoshi Seo	:	
Application No. 09/987,003	:	DECISION ON PETITION
Filed: November 13, 2001	:	UNDER 37 CFR 1.313
Attorney Docket No. 740756-2389	:	

This is a decision on the petition under 37 CFR 1.313, filed April 26, 2006, requesting withdrawal of this application from issue.

The petition is **DISMISSED**.

Petitioner requests that this application be withdrawn from issue to allow for consideration in a Request for Continued Examination under 37 CFR 1.114 a concurrently filed amendment and Information Disclosure Statement.

However, in reviewing the file record, it is noted that a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed on December 19, 2005 requiring that the issue and publication fees be paid on or before March 20, 2006 to avoid abandonment of the application. No drawings were required by the Notice of Allowability.

There is no indication that the issue and publication fees were timely submitted and, as such, this case is considered to be abandoned by operation of law. If petitioner has evidence of the timely payment of the issue and publication fees, then petitioner may wish to consider filing a petition requesting withdrawal of the abandonment of this application. The petition should be captioned as a petition requesting withdrawal of the abandonment of this application and as a renewed petition requesting withdrawal of this application from issue.

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.

Frances Hicks
Petitions Examiner
Office of Petitions

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

In re Application of :
Satoshi Seo :
Application No. 09/987,003 : DECISION ON PETITION
Filed: November 13, 2001 : UNDER 37 CFR 1.313
Attorney Docket No. 740756-2389 :

This is a decision on the petition under 37 CFR 1.313, filed April 26, 2006, requesting withdrawal of this application from issue.

The petition is **DISMISSED**.

Petitioner requests that this application be withdrawn from issue to allow for consideration in a Request for Continued Examination under 37 CFR 1.114 a concurrently filed amendment and Information Disclosure Statement.

However, in reviewing the file record, it is noted that a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed on December 19, 2005 requiring that the issue and publication fees be paid on or before March 20, 2006 to avoid abandonment of the application. No drawings were required by the Notice of Allowability.

There is no indication that the issue and publication fees were timely submitted and, as such, this case is considered to be abandoned by operation of law. If petitioner has evidence of the timely payment of the issue and publication fees, then petitioner may wish to consider filing a petition requesting withdrawal of the abandonment of this application. The petition should be captioned as a petition requesting withdrawal of the abandonment of this application and as a renewed petition requesting withdrawal of this application from issue.

Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
Post Office Box 1450
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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.

Frances Hicks
Petitions Examiner
Office of Petitions

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

COPY MAILED
MAY 0 8 2006
OFFICE OF PETITIONS

In re Application of :
Satoshi Seo :
Application No. 09/987,003 : DECISION ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 740756-2389 :

This is a decision on the petition under 37 CFR 1.8(b), filed May 1, 2006, to accept as timely paid the issue and publication fees. The petition is also being treated as a renewed petition under 37 CFR 1.313(c)(2) to withdraw this application from issue.

The petition under 37 CFR 1.8(b) is **GRANTED**.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.8(b)

As noted in the decision on the petition to withdraw from issue mailed April 26, 2006, there is no indication in the file record for this application that the issue and publication fees were paid on or before March 20, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2005.

In response to the decision, petitioner asserts that a timely reply to the Notice of December 19, 2005 was mailed via certificate of mailing on March 20, 2006. In support, petitioner has submitted a copy of the previously mailed correspondence (and check stated to have accompanied the correspondence), bearing a certificate of mailing, signed by Ms. Rose M. Fichtel, and dated March 20, 2006, which would have rendered the reply timely if received. The petition is also accompanied by a declaration by Ms. Fichtel attesting to the previous timely mailing of the issue and publication fees on March 20, 2006.

Office records fail to disclose receipt of the issue and publication fees asserted to have been previously submitted on

March 20, 2006. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> 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.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the issue and publication fees are accepted as having been timely submitted via certificate of mailing on March 20, 2006.

The copy of the Part B - Fee(s) Transmittal received with the petition will be accepted in place of the transmittal established as having been mailed on March 20, 2006.

The $1,718 check submitted will be applied towards the $1,400 issue fee, the $300 publication fee, and $18 for six advanced copies of the patent.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)(2)

Petitioner requests withdrawal from issue of the above application for consideration of an Information Disclosure Statement and an amendment. A Request for Continued Examination accompanied the petition to withdraw from issue.

The petition meets the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement and amendment filed April 26, 2006.

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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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MCDERMOTT WILL & EMERY
600 13TH STREET N.W.
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Tomofumi Shono et al :
Application No. 09/987,004 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 740819-687 :

This is a decision on the petition, filed April 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 7, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (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).

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

OCT 29 2004

In re Application of :
ALBERT BORONAT ET AL : NOTICE OF WITHDRAWAL
Serial No. 09/987,025 : FROM ISSUE
Filed: 11/13/2001 : UNDER 37 CFR 1.313(b)
For: NUCLEIC ACID SEQUENCES TO PROTEINS INVOLVED IN ISOPRENOID SYNTHESIS

The above-identified application is withdrawn from issue after payment of the issue fee to reopen prosecution. See 37 CFR 1.313(b)(1).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Amy Nelson at (571)-272-0804.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Jasemine C. Chambers
Director, Technology Center 1600

Fulbright & Jaworski L.L.P.
600 Congress Ave
Suite 2400
Austin, TX 78701

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COMMISSIONER FOR PATENTS
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PAPER NO. 5

Richard C. Litman
LITMAN LAW OFFICES
P.O. Box 15035
Arlington, VA 22215

MAIL

JUL 2 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Charles G. Shamoon et. al. :
Serial No: 09/987,035 : DECISION ON PETITION
Filed: November 13, 2001 :
Title: THERMOSTAT AND REMOTE CONTROL SYSTEM AND METHOD

This is a decision on the petition under 37 C.F.R § 1.102, filed June 30, 2003, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

A grantable petition under 37 C.F.R § 1.102, and in accordance with M.P.E.P. § 708.02, 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 verified statement by applicant stating that he/she 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.

Kenneth Wieder, SPRE
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Date Mailed : 06/30/08

Patent No. : 7266376 B2
Patent Issued : 09/04/07
Docket No. : **0033-0775P**

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.

Respecting the alleged errors in the documents filed on 02/27/08; please see attachment.
"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : May 28, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/987143 Patent No.: 7266376 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

[redacted]

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.

Formatted: Bullets and Numbering

Comments: Deletion of "said control circuit of said information providing device including a circuit controlling said communication circuit such that information related to an activity for executing said schedule is transmitted to said mobile terminal, based on said positional information received from said mobile terminal and said schedule information stored in said first storage circuit, and said control circuit of said mobile terminal further including a circuit controlling said output circuit such that the information related to the activity for executing said schedule received from said information

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

providing device is output," broadens the scope of the claims.

CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER

2617

SPE Art Unit

Deleted: ¶

PAGE 2/2 * RCVD AT 6/26/2008 4:54:55 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-4/13 * DNIS:2709990 * CSID:703 308 5403 * DURATION (mm-ss):02-36

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081027

DATE : October 31, 2008

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 7,266376 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: CHARLES APPIAH **Art Unit** 2617

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OFFICE OF PETITIONS

In re Application of :
Wiebe, et al. :
Application No. 09/987,159 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 3782-0198P :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.18, filed July 24, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on June 26, 2005, after no response to the Advisory Action mailed September 26, 2005, was received. The record reflects that that a final Office action was mailed March 25, 2005, allowing a period for reply of three months from its mailing date. An amendment responsive to the final Office action was filed on June 27, 2005. On September 26, 2005, an Advisory Action was mailed stating that "[t]he final rejection in this application is withdrawn. The amendment filed June 22, 2005, will be entered and treated as an amendment after non-final rejection. An action will be forthcoming." Notwithstanding this communication, a Notice of Abandonment was mailed on May 23, 2006, stating the application is an abandoned status for failure to file a timely response to the notice of September 26, 2005.

The instant petition maintains that no response to the Advisory Action as per Advisory Action itself. The evidence is convincing that application was improperly held abandoned as the Advisory Action did not require a further response, and no action has been issued in response to the amendment filed June 27, 2005. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 3600, GAU 3624 for further processing, including issuance of proper action in response to the amendment filed June 26, 2005.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P O BOX 19928
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OFFICE OF PETITIONS

In re Application of :
Benjamin K. Jones et al :
Application No. 09/987,162 : DECISION GRANTING PETITION
Filed: November 13, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 106566 :

This is a decision on the petition, filed February 13, 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 January 5, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2625 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\Feb9\987162.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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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8321 OLD COURTHOUSE ROAD, SUITE 200
VIENNA, VA 22182-3817

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Makoto Inoue et al :
Application No. 09/987,194 : DECISION ON PETITION
Filed: November 13, 2001 : TO WITHDRAW
Attorney Docket No. KYO005-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 March 7, 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 37 CFR 10.40 states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" Additionally, 37 CFR 10.40 states, "i[f] paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because: [. . .]" Reasons a practitioner can permissively withdraw follow the later quotation.

Since the request for withdrawal as attorney or agent submitted on March 7, 2006 provides no reasons for withdrawal, 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 for Withdrawal as Attorney or Agent) to supply practitioner's reasons.

There is an outstanding Office action mailed April 5, 2006 that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mr. Kenji Suzuki, Patent Attorney
2-1-10-206, Sasazuka, Shibuya-ku
Tokyo, Japan 151-0073

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Patent No. 6,812,395 :
Issue Date: November 2, 2004 :
Application No. 09/987,232 : NOTICE
Filed: November 6, 2001 :
Attorney Docket No. BSST.006A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of: :
Chen et al. :
Application No. 09/987,305 : ON PETITION
Filed: November 14, 2001 :
Attorney Docket No.CHEN3302/EM/7380 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed December 27, 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." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change of status to a large entity has been entered and made of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MANELLI DENISON & SELTER
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WASHINGTON DC 20036-3307

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OFFICE OF PETITIONS

In re Application of
John R. Webster
Application No. 09/987,322
Filed: November 14, 2001
Attorney Docket No. 84561

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed June 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on March 16, 2005, for failure to submit within three months, a proper and timely response to the non-Final Office action mailed on December 15, 2004. An RCE was filed June 10, 2005 in response to the non-Final Office action since prosecution had not closed in this matter, a notice that the request was improper was mailed on June 22, 2005. Accordingly, a Notice of Abandonment was mailed June 22, 2005.

In response to the Final Office Action mailed December 15, 2004, petitioner has submitted a continuation application pursuant to 37 CFR 1.53(b), application no. 11/166,727, filed June 27, 2005.

---

[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)).

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.10/042,517 filed January 7, 2002, pursuant to the provisions of 37 CFR 1.53(b).

This matter is being referred to Technology Center 3677 for processing of the continuation application filed June 27, 2005.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
William C. Lynch
Application No. 09/987,338
Filed: November 14, 2001
For: SPACE-BASED SERVER NETWORK ARCHITECTURE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent filed on March 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, ***the request is granted.***

All future correspondence will be sent to the below listed address until such a time as a proper request of change of correspondence address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

cc: Mark J. Itri
MCDERMOTT WILL & EMERY
18191 VON KARMAN AVE
SUITE 400
IRVINE, CA 926-0187

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2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

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OFFICE OF PETITIONS

In re Patent No. 6,912,190 :
Issue Date: June 28, 2005 :
Application No. 09/987,384 : ON PETITION
Filed: November 14, 2001 :
Attorney Docket No. 2001_1701A :

This is a decision on the Request for Certificate of Correction under 37 CFR 1.323, filed October 25, 2005, which is being treated as a petition under 37 CFR 1.182 to correct the name of the fifth inventor on the front page of the above-identified patent by way of a Certificate of Correction. The delay in responding is regretted.

Since failure to provide the correct name of the fifth inventor was that of counsel's, a petition under 37 CFR 1.182 was required. Therefore, the $400 petition fee has been charged to counsel's deposit account, as authorized.

While it is noted that the requirements under 37 CFR 1.182 were satisfied in the petition filed October 25, 2005, a decision on the petition was never rendered. However, on December 27, 2005, the Office issued the requested Certificate of Correction. Accordingly, the present **petition is granted *nunc pro tunc***.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,404	11/14/2001	Takeshi Kamio	SH-0027US	7029

21254 7590 08/12/2009

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER
HOFFMANN, JOHN M

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
08/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Mailed : AUG 12 2009

In re Application of : DECISION ON
Takeshi Kamio et al. : PETITION
Serial No. 09/987,404 :
Filed: November 14, 2001
For: Method For Sintering Porous-Glass Material, And Method For Manufacturing Preform and Optical Fiber

This is a decision on Applicants' request, filed under 37 CFR 1.181, that the Reply Brief filed on June 30, 2008, be entered.

The Examiner issued a paper indicating that the Reply Brief was not entered, for failing to comply with 37 CFR 41.41(a). Applicants filed a request for reconsideration on August 11, 2008 and the Examiner refused entry on December 8, 2008.

The Examiner's position is that the Reply Brief includes new evidence. Specifically, Applicants attempt to rely on portions of prior art drawings. Applicants' position is that the Reply Brief includes a discussion of the reference applied by the Examiner.

DECISION

The petition is **GRANTED**.

The examiner is directed to enter the Reply Brief and forward the application to the Board of Patent Appeals and Interferences.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Scott M. Tulino
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAY 16 2003

OFFICE OF PETITIONS

Applicant: Ferrari el al.
Appl. No.: 09/987,427
Filing Date: November 14, 2001
Title: COSMETIC COMPOSITION COMPRISING A POLYMER PARTICLE DISPERSION AND A PIGMENT DISPERSION
Attorney Docket No.: 05725.0996-00
Pub. No.: US 2002/0164297 A1
Pub. Date: November 7, 2002

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on January 2, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication was published using the a copy of the translated provisional application, not translated nonprovisional application, which is a material mistake.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request alleges that the Office published a translation of the provisional application which is the wrong specification. On April 17, 2002, applicant filed two copies of the English translation of the specification filed in French. Each of the two translations include a certification that "[t]hat the attached is, to the best of RWS Group ple knowledge and belief, a true translation in the English language of the specification in French filed with the application for a patent in the U.S.A. on ____ under ___", additionally the specification placed in the center of the file and used for the publication includes a cover letter stating that it is a "Submission of English Language Translation of Provisional Application Under 37 CFR 1.52(d)(2)". While applicant argues that the Office published the wrong specification and is using the wrong specification as the originally filed specification, there is no indication in the application papers that the translations are different or that one over the other should have been used as the specification.

The error identified by applicant is not an Office mistake, which is apparent from the Office records as required by 37 CFR 1.221(b). However, in view of applicant's explanation, the other translation has been moved to the center of the file jacket and scanned into Office records as the copy of the application as filed.

---

[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 applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1600 to await further examination in due course.

The title has been changed to "Cosmetic Composition Comprising A Polymer Particle Dispersion and a Pigment Dispersion"

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Westerlund Powell, P.C.
100 Daingerfield Road
Suite 100
Alexandria VA 22314-2886

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OFFICE OF PETITIONS

In re Application of :
Vasey-Glandon et al. :
Application No. 09/987,452 : DECISION GRANTING PETITION
Filed: November 14, 2001 :
Attorney Docket No. D-3988CIP :

This is a decision on the petition filed May 30, 2002, requesting that Figure 10D described in the specification be accorded a filing date of November 14, 2001, as part of the original disclosure.

On November 14, 2001, applicants filed the above-identified application. On November 30, 2001, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of November 14, 2001, and requiring applicants to submit the statutory basic filing fee, additional claim fees, an executed oath or declaration, a surcharge, and substitute drawings in compliance with 37 CFR 1.84. Additionally, the Notice advised applicants that Figure 10D described in the specification appeared to have been omitted.

In response, on May 30, 2002, applicants filed, inter alia, the present petition, a copy of one (1) sheet of drawings, containing Figure 10D and substitute drawings. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of 68 sheets of drawings on November 14, 2001.

Upon review of the record, Figure 10D, deposited on November 14, 2001, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on November 14, 2001, included Figure 10D, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 10D, was complete on filing and entitled to a filing date of November 14, 2001.

Accordingly, the petition is granted.

The requirement for the omitted drawing figure set forth in the Notice of November 30, 2001, was sent in error and is hereby vacated. Accordingly, no petition fee is necessary.

The application file is being forwarded to the Office of Initial Patent Examination for review of the substitute drawings and for further processing with a filing date of November 14, 2001, using the substitute drawings submitted on May 30, 2002. The Office record should indicate that 68 sheets of drawings were present on filing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FALLS CHURCH, VA 22040-0747

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OFFICE OF PETITIONS

In re Application of :
Kjorling, et al. :
Application No. 09/987,475 :
Filed: November 14, 2001 :
Attorney Docket No. 0226-0111P :

This is a decision on the petition under 37 CFR 1.55(a)(2), filed November 9, 2005, for entry of priority papers submitted on the date the issue fee was paid.

The petition is **granted**.

Receipt of papers submitted under 35 U.S.C. § 119 is acknowledged.

The priority papers are accepted as timely filed and have been placed of record in the file.

Petitioner is advised that the rule affecting the submission of a claim for priority of a certified priority document under 37 CFR 1.55(a) was changed effective November 7, 2000. In effect, the Office will permit applicants to file a priority claim or certified priority document with the processing fee set forth in 37 CFR 1.17(i) between the date the issue fee is paid and the date a patent is issued. The Office will however, merely place such submission in the application file but will not attempt to determine whether the applicant has met the conditions of 35 U.S.C. § 119(a)-(d) to make the priority claim information in the text of the patent. In such a situation, the patent will not contain the priority claim information. In such an event, the patentee may request a certificate of correction under 35 U.S.C. § 255 and 1.323 and a determination of entitlement for such priority will be made after the patent is granted. See Federal Register Vol. 65, No. 175, September 8, 2000, page 54622.

Nevertheless, since the petition under 37 CFR 1.55(a) is now before the deciding official, a favorable decision has been rendered. However, if the printing of the patent has progressed to the point where the priority data cannot be included on the printed patent, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.00

Any questions concerning this decision on petition should be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (571) 272-4200.

This matter is being referred to the Publishing Division.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Robert G. Lev
4766 Michigan Boulevard
Youngstown, OH 44505

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OFFICE OF PETITIONS

In re Application of :
Ward Mullins :
Application No. 09/987,489 :
Filed: November 15, 2001 :
Attorney Docket Number: :
0036-022A : ON PETITION

This is a decision on the petition under 37 CFR § 137(a), filed October 28, 2005.

The Petition under 37 CFR 1.137(a) is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed April 19, 2005, and Supplemental Notice of Allowability, mailed July 18, 2005. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on October 19, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

Applicant is advised that an allegation that an Office action was not received may form the basis for revival of an application based upon unavoidable abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or 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 Applicant's statement.

Accordingly, Applicant's assertion, that the Notice(s) was not received, is insufficient to justify granting of the petition. Applicant must also provide a copy of the docket record (or file jacket) where the non-received Notice(s) would have been entered had it been received and docketed.

As such, the petition under 37 CFR 1.137(a) is dismissed.

Applicant should file a Request for Reconsideration of Petition and include the necessary statements and copies of documents.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert G. Lev
4766 Michigan Boulevard
Youngstown, OH 44505

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JAN 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Ward Mullins	:	
Application No. 09/987,489	:	
Filed: November 15, 2001	:	
Attorney Docket Number:	:	
0036-022A	:	ON PETITION

This is a decision on the petition under 37 CFR § 137(b), filed November 16, 2005.

The Petition is hereby **granted.**

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed April 19, 2005, and Supplemental Notice of Allowability, mailed July 18, 2005. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on October 19, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The issue fee was paid on October 28, 2005. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
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. 6912007
Issue Date: June 28,2005
Application No. 09987491
Filed: November 15,2001
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 24,2009 . 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)
6912007	2005-06-28	09/987,491	2001-11-15	

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	/jg/	Date (YYYY-MM-DD)	2009-09-24
Name	GIN, J.M. Jack		

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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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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FEB 16 2006

OFFICE OF PETITIONS

In re Application of :
Chuang et al. :
Application No. 09/987,513 : DECISION ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No. MR2349-719 :

This is a decision on the petition filed on 25 January, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 January, 2003, for failure to timely file a proper reply to the final Office action mailed on 13 September, 2002, which set a three (3) month shortened statutory period for reply. On 9 July, 2003 (postcard date 31

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

December, 2002), an amendment after final rejection and request for a one (1) month extension of time in accordance with 37 CFR 1.136(a) were filed. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. An Advisory Action was mailed on 10 July, 2003. Notice of Abandonment was mailed on 18 July, 2003.

Petitioner has filed a Request for Continued Examination (RCE) and fee as the required reply, and indicated that the previously filed amendment after final rejection is the submission required by 37 CFR 1.114.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to Technology Center Art Unit 2834 for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Steven M. Rabin
Rabin & Berdo, P.C.
1101 14th Street, NW, Suite 500
Washington DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAPER NO. 17

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 07 2003

OFFICE OF PETITIONS

In re Application of :
Yuki Miyazawa, et al. :
Application No. 09/987,549 : ON PETITION
Filed: November 15, 2001 :
Attorney Docket No. 215918US0 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on August 5, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1616 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
(703) 305-9220

[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.

#13
9/24/03
OPPICE
DWP
9/25/03

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 07 2003
OFFICE OF PETITIONS

In re Application of
Yuki Miyazawa, et al.
Application No. 09/987,549
Filed: November 15, 2001
Attorney Docket No. 215918US0

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on August 5, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 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]

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1616 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

RECEIVED: 8-8-03
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed: 8-8-03
Type of Resp(s):
Due Date(s):

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Received from < 7034132000 > at 9/23/03 1:27:44 PM [Eastern Daylight Time]

Dept.: Chemical
By: NFO/TWB/dlc

HANDCARRY

OSMM&N File No. 215918US0
Serial No. 09/987,549
In the matter of the Application of: Yuki MIYAZAWA et al.
For: TILLERING PROMOTER FOR PLANT AND METHOD FOR TILLERING PROMOTION OF PLANT

Due Date: N/A

The following has been received in the U.S. Patent Office on the date stamped hereon:

- Check for $750.00
- Dep. Acct. Order Form
- Request for Continued Examination (RCE) Transmittal
- Petition to Withdraw from Issue Under 37 C.F.R. §1.313
- Information Disclosure Statement
- Form PTO 1449
- Cited References (2)

RECEIVED
AUG 04 2003
OFFICE OF PETITIONS

[redacted]

[redacted]

Received from < 7034132000 > at 9/23/03 1:27:44 PM [Eastern Daylight Time]

OBLON
SPIVAK
MCCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

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PLEASE CALL US AT (703) 413-3000 IF THE MESSAGE YOU RECEIVE IS INCOMPLETE OR NOT LEGIBLE

TO	Alton Pryor (NAME)	September 23, 2003 (DATE)
	PTO (COMPANY/FIRM)	703-746-4996 (FAX #)
	NUMBER OF PAGES INCLUDING COVER: 9	CONFIRM FAX: ☐ YES ☐ NO
FROM	Rohitha M. Jayasuriya (NAME)	215918US (OUR REFERENCE)
	703-412-6247 (DIRECT PHONE #)	(YOUR REFERENCE)

MESSAGE

As requested, I am attaching the signed copies of the RCE, Petition to Withdraw and IDS to expedite prosecution. The filing receipt and approved petition is also attached.

Unless otherwise indicated or obvious from the nature of the transmittal, the information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not th intended recipient or the employee or agent responsibl to deliv r it to the intended recipient, you are hereby notified that any dissemination, distributi n or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service at our Expense. Thank You.

Received from < 7034132000 > at 9/23/03 1:27:44 PM [Eastern Daylight Time]

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Yasuhisa Hayashi, et al. :
Application No. 09/987,550 : ON PETITION
Filed: November 15, 2001 :
Attorney Docket No.: 216099US2 :
:

This is a decision on the petition, filed December 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2642 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 12

ALTHEIMER & GRAY
TEN SOUTH WACKER DRIVE, SUITE 4000
CHICAGO IL 60606-7482

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SEP 17 2002

OFFICE OF PETITIONS

In re Application of	: DECISION NOTING JOINDER OF
Kovesdi and Rajasekharan	: INVENTOR AND PETITION UNDER
Application No. 10/035,952	: 37 CFR 1.47(a) MOOT
Filed: 26 December, 2001	: AND DECISION GRANTING
Attorney Docket No. 66566.01US2	: PETITION UNDER 37 CFR 1.182

This is a decision on the renewed petition under 37 CFR 1.47(a) and 1.182 filed on 23 August, 2002.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.182 is **GRANTED**.

Papers filed on 23 August, 2002, in response to the Decision Under 37 CFR 1.47(a) and 1.182 mailed on 16 August, 2002, included a Declaration signed by the previously non-signing inventor, Rajasekharan, 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).

Petitioners should note that the order of inventors' names was established by the declaration filed on 13 May, 2002.

The declaration under 37 CFR 1.63 filed on 13 May, 2002, naming Rosza Kovesdi and Ajit Rajasekharan as joint inventors was signed by joint inventor Kovesdi and gave power of attorney to, *inter alia*, Robert E. Browne (Browne et al.) Of Altheimer & Gray, 10 South Wacker Drive, Suite 4000, Chicago, IL 60606-7482, as the correspondence address of record.

Petitioner Ajit Rahasekharan by way of Trevor Q. Coddington, Rodger L. Tate, Anthony W. Shaw, Cono A. Carrano, Laurence H. Posorske, Robert A. King, and Craig L. Puckett (Coddington et al.) of Brobeck, Phleger & Harrison LLP, 1333 H Street, NW, Suite 800, Washington, DC 20005, assert that a dispute has arisen between Rajasekharan and Kovesdi and seeks to require that all

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OFFICE OF PETITIONS

correspondence filed in this application be signed by representatives of both joint inventors.

In accordance with MPEP 402.10, to assure that all interests are properly and effectively represented, **all further correspondence to the U.S. Patent and Trademark Office (USPTO) must be signed by petitioner's representative (Coddington et al.) as named in the declaration and power of attorney submitted on 23 August, 2002, and likewise signed by Browne et al. who remain Kovesdi's representative. Each attorney signing subsequent papers must indicate whom he or she represents.**

All parties are reminded that dual correspondence is not permitted and will not be undertaken by the USPTO.

The USPTO will continue to conduct correspondence with the attorneys first named in the application, *i.e.*, Browne et al., at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to the USPTO.[1]

It is noted that, notwithstanding this decision, the inventors may still **jointly** appoint or revoke a power of attorney.

The application is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Brobeck, Phleger & Harrson LLP
Intellectual Property Department
1333 H Street, N.W., Suite 800
Washington, D.C. 20005

[1] See MPEP 402.10.

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TREVOR CODDINGTON
HUNTON & WILLIAMS
1900 K ST NW
WASHINGTON DC 20006-1109

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Ajit Rajasekharan	:	
Application No. 09/987,597	:	LETTER
Filed: 15 November, 2001	:	
Atty Docket 63044.2	:	

This is a letter in response to the "Reply to Notice Regarding Change of Power of Attorney" filed on 15 June, 2004.

The request is **granted**.

The Office notes that the revocation and power of attorney filed on 24 May, 2004, was filed by a party who is not an inventor or assignee in the present application. The power of attorney was inadvertently entered in Office records as a result of a clerical error. The Office apologizes for this error. The previously appointed attorneys are the attorneys of record, and the previously filed correspondence address of record has been re-entered in Office records. The power of attorney filed on 24 May, 2004, will not be entered. The Notice Regarding Change of Power of Attorney and the Notice of Acceptance of Power of Attorney both mailed on 7 June, 2004, are **vacated**.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Ajit Rajasekharan	:	
Application No. 09/987,597	:	LETTER
Filed: 15 November, 2001	:	
Atty Docket 63044.2	:	

This is a letter in response to the communication entitled "Request for Recognition as a Proper Party Under 37 CFR 1.181-1.183" filed on 24 May, 2004.

The paper will not be treated on the merits as petitioner has failed to establish she is a proper party in interest (*i.e.*, inventor or assignee).

The inventorship of the present application was set forth in a properly executed oath or declaration signed by the inventor of record pursuant to 35 USC 115, 35 USC 116, and 37 CFR 1.63. Accordingly, any change in inventorship must be requested by the inventor(s) named in the first executed oath or declaration pursuant to 37 CFR 1.48, and, if applicable, an assignee pursuant to 37 CFR 3.73(b).

As to the power of attorney filed on 24 May, 2004, an inspection reveals that the power of attorney was filed by a party other than an inventor or assignee in the present application. As the power of attorney was not filed by a proper party in interest, the power of attorney will not be entered. The Notice Regarding Change of Power of Attorney and the Notice of Acceptance of Power of Attorney both mailed on 7 June, 2004, are **vacated**.

Petitioner's representative(s) is placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition

or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petitions in this or any other application to the Office of Enrollment and Discipline for appropriate action.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries should be directed to the undersigned at 703 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Jones Day
222 East 41st Street
New York NY 10017

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.

ERIC ROBINSON
PMB 955
21010 SOUTHBANK STREET
POTOMAC FALLS, VA 20165

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JAN 22 2003

OFFICE OF PETITIONS

In re Application of :
Hongyoung Zhang :
Application No. 09/987,607 : ON PETITION
Filed: November 15, 2001 :
Attorney Docket No. 0756-2395 :

This is a decision on the petition under 37 CFR 1.313, filed January 21, 2003, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 27, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

After receipt of the application in the Office of Petitions, the application will be forwarded to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed Amendment.

Frances Hicks
Lead 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 must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to timely request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 20

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

OCT 07 2005

In re Application of
ZHANG
Application No. 09/987,607
Filed: November 15, 2001
Attorney Docket No. 740756-2395

DECISION ON PETITION

This is a decision on the petition filed June 17, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is DENIED.

A non-final Office action was mailed on November 3, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that an Amendment in response to the Office action was timely filed in the Patent and Trademark Office (USPTO) on February 3, 2004. This is evidenced by a copy of the Amendment including a certificate of mailing and the post card receipt indicating receipt on February 10, 2004.

The Amendment is not of record in the application file and cannot be located. However, the procedure for determining whether a response is considered timely filed in the Office is set forth in MPEP § 503.

> Applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment.

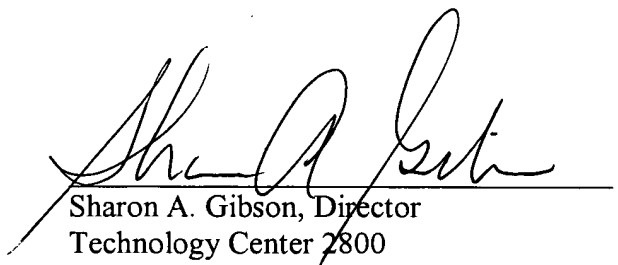
Petitioner's post card receipt is insufficient to establish that the Amendment was received in the USPTO on February 10, 2004. The stamp "MELLON FEB 10 2004" is not a recognized Office date stamp to establish prima facie evidence of receipt.

Accordingly, absent a stamped post card receipt from the USPTO, there was no timely response to the non-final Office action mailed on November 3, 2003.

The application thus became abandoned as a matter of law.

Petitioner may wish to consider filing a petition under 37 CFR § 1.137(a) or (b) requesting that the application be revived. A petition under 37 CFR § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR § 1.137(c); and (4) the petition fee as set forth in 37 CFR § 1.17(m). No consideration to the substance of a petition will be given until this fee is received.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.



Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

OIPE IAP65 OCT 07 2005 PATENT & TRADEMARK OFFICE

1612813

Docket No.:0756-2395

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Hongyong ZHANG	)	
Serial No. 09/987,607	)	Group Art Unit: 2813
Filed: November 15, 2001	)	Examiner: David Hogans
For: METHOD FOR PRODUCING SEMICONDUCTOR INTEGRATED CIRCUIT INCLUDING A THIN FILM TRANSISTOR AND A CAPACITOR	)	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with The United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria VA 22313-1450, on October 6, 2005

Penny A Lowe

RECEIVED
OCT 13 2005
TECHNOLOGY CENTER 2800

THIRD REQUEST FOR STATUS

Honorable Commissioner of Patents
P. O. Box 1450
Alexandria VA 22313-1450

Sir:

To date the undersigned attorney of record has received no action on the petition to withdraw holding of Abandonment filed June 14, 2004 in the above-identified patent application. Please provide the undersigned with a status report of the application in writing.

Respectfully submitted,

Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
PMB 955
21010 Southbank Street
Potomac Falls, Virginia 20165
(571) 434-6789
(571) 434-9499 (Fax)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OCT 16 2006

09212006

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of:
ZHANG
Serial No.: 09/987,607
Filed: November 15, 2001
Attorney Docket No. 740756-2395

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the renewed petition filed October 24, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn. A decision on the previous petition was mailed October 7, 2005.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed November 3, 2003, setting a three-month period of response. A Notice of Abandonment was mailed on May 18, 2004.

Petitioner asserts that a response to the non-final Office action was timely mailed to the US Patent and Trademark Office on February 3, 2004 via regular mail. This is evidenced by 1) a copy of the response to the non-final Office action containing a certificate of mailing and 2) a declaration by Adele M. Stamper attesting to the personal knowledge of the mailing of the response.

The response to the non-final Office action is not of record in the application file and cannot be located. However, the procedure for determining whether a response is considered timely filed by being mailed but not received in the Office is set forth in 37 C.F. R. § 1.8.

> Under 37 C.F. R. § 1.8, correspondence which includes a certificate of mailing, stating the date of deposit, may be considered timely even if not received timely by the Office. The Office must receive 1) timely notification of the previous mailing, 2) an additional copy of the previously mailed correspondence and certificate, and 3) a statement which attests on a personal knowledge basis that the earlier correspondence was timely mailed.

Absent such a certificate of mailing, under 37 C.F. R. § 1.6, correspondence received by Office is stamped with the date of receipt, unless the correspondence was deposited as "Express Mail" or as a facsimile transmission.

The petition meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the non-final Office action. From there the application file will be forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.

Sharon A. Gibson, Director
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4501 NORTH FAIRFAX DRIVE
SUITE 920
ARLINGTON VA 22203

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
David A. Farber et al :
Application No. 09/987,723 :
Filed: November 15, 2001 :
Attorney Docket No. P 283002 TN-CONT-2 :

This is a decision on the petition, filed January 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2167 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
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ALEXANDRIA, VA 22313-1450
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HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

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JUN 0 4 2003

OFFICE OF PETITIONS

Applicant: Kunsch et al.
Appl. No.: 09/987,755
Filing Date: November 15, 2001
Title: HUMAN HEPATOMA-DERIVED GROWTH FACTOR-2
Attorney Docket No.: PF198D1C1
Pub. No.: US 2003/0022312 A1
Pub. Date: January 30, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 27, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in claim 1, wherein "An isolated polynucleotide comprising a member selected from the group consisting of" is misprinted as "An isolated polynucleotide comprising a member selected from the group consisting or", which is a material mistake. Applicant also states that this error could affect the scope of the provisional rights or undermine the strength of the publication as prior art.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies a minor typographical error in claim 1, wherein "An isolated polynucleotide comprising a member selected from the group consisting of" is misprinted as "An isolated polynucleotide comprising a member selected from the group consisting or," which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is clearly understandable. The phrase "selected from the group consisting of" is a very well know phrase in claim terminology, which has a clear meaning. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b).

The misspelling is a minor typographical error, which is clearly understandable from reading the specification and claims in which the term is used, as words are not read in a vacuum. The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published"

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 1632 to await further examination in due course.

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

George T. Marcou
KILPATRICK STOCKTON LLP
Suite 900
607 14th Street, N.W.
Washington, D.C. 20005

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APR 0 1 2003

OFFICE OF PETITIONS

In re Application of :
Allen J. NEJEZCHLEB et al. :
Application No. 09/987,769 :
Filed: November 15, 2001 :
Attorney Docket No. SAIC0020-CON :

DECISION
ON PETITION
37 CFR 1.53(e)

This is a decision on the petition filed November 15, 2001[1], and the supplement thereto filed November 29, 2001, under 37 CFR 1.181, requesting that the above-captioned application be accorded a filing date of October 30, 2001, which is being treated under the provisions of 37 CFR 1.53(e) as requesting that the above-captioned application filed be accorded a filing date of October 30, 2001, instead of the currently accorded filing date of November 15, 2001.

The petition is DISMISSED. This is not a final agency action within the meaning of 5 U.S.C. §704.

The above-identified application papers were deposited with the USPTO on November 15, 2001. The Office of Initial Examination found these papers to be complete for purposes of according a filing date, and as such, assigned a filing date of November 15, 2001, to these papers.

Petitioner requests the earlier filing date on the grounds that because of the mail delays associated with the recent anthrax contamination of the U.S. Postal Service Brentwood Sorting Station, through which the USPTO's mail is routed, the Issue Notification in parent application No. 09/085,669 was neither docketed nor

[1]The petition was resubmitted via facsimile on September 25, 2002.

received prior to the issue date of U.S. Patent 6,309,610. Consequently, the instant continuing application was not timely filed[2]. Petitioner does not point to any USPTO error in according the current filing date.

Unfortunately, the requested relief simply cannot be granted, as such is beyond the scope of authority of the USPTO. 35 USC 111(a)(4) specifically states in pertinent part that:

> The filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office.

Since petitioner concedes that the above-identified specification was not received at the USPTO any earlier than November 15, 2001, that is the earliest filing date that can be accorded to the instant application. See 35 USC 111(a)(4). The statute does not accord a filing date to an application that was intended to have been filed.

Petitioner should note that MPEP §1306.03 has long contained the following caveat: "[b]ecause the Issue Notification may be mailed less than two weeks before the application is expected to issue as a patent, applicants are advised to file any continuing application ***before*** receiving the Issue Notification to avoid loss of copendency" (emphasis added). This section of the MPEP merely reflects the prior notices that members of the public and registered practitioners were given at "Patents to Issue More Quickly After Issue Fee Payment", 1220 *Off. Gaz. Pat. Office* 42 (March 9, 1999) which states, in pertinent part "[a]s part of the Patent and Trademark Office's changes in business practices to streamline its processing of patent applications, and thereby maximize patent term of patents, the PTO has established an objective to issue patents within four weeks of payment of the issue fee by July 1999 instead of the current average of three months;" and at "Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee", 1221 *Off. Gaz. Pat. Office* 14 (April 6, 1999) which states, in pertinent part: "Filing continuing applications: Since a continuing application (a continuation, divisional, or continuation-in-part) may be filed anytime before an application is

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[2] Petitioner is apparently attempting to establish continuity between the instant application and parent application No. 09/085,669 in order to obtain the benefit of the filing date of the prior application pursuant to 37 CFR 1.120 although no claim is specifically made pursuant to 37 CFR 1.78 in the instant application.

patented or abandoned, applicants will often wait for the Issue Notification before filing such a continuing application. *Therefore, the PTO strongly advises applicants not to wait for receipt of an Issue Notification before filing any desired continuing application* [emphasis added]. This is because applicants will now receive the Issue Notification just shortly before the application will issue as a patent (when it may be too late to prepare and file a continuing application). Applicants are reminded that: (1) the requirement that there be copendency for an application to obtain any benefit of the filing date of the prior application is a statutory requirement (35 U.S.C. 120) which the PTO cannot waive; and (2) the patent statute contains no provisions for restoring a patented application (unlike an abandoned application) to pending status.

> The PTO specifically advises practitioners to be prepared to file any desired application preferably no later than the date the issue fee is paid, to avoid issuance of the application before the continuing application is filed."

A review of Serial Number 09/085,669, with which petitioner is apparently attempting to establish continuity, reveals that the issue fee was paid on July 13, 2001. Notwithstanding the clear and unambiguous warnings forth in MPEP §1306.03[3] and the *Official Gazette* notices published March 9, 1999 and April 6, 1999, since petitioner appears to have unfortunately continued the practice of waiting until receipt of the Issue Notification before preparation of a continuing application, petitioner can not now be heard to complain.

In any event, arguments that the delayed receipt of the Issue Notification may have been due to Postal Service Interruptions and caused a delayed filing of the instant application such that copendency could not be established are immaterial to the

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[3]*Manual of Patent Examining Procedure* (MPEP), 8th Ed. (Aug. 2001). The MPEP has no binding force on the courts, but it commands notice as an official interpretation of statutes and regulations with which it does not conflict. Patent attorneys, examiners, and the public commonly rely on the MPEP as a guide in procedural matters. In re Kaghan, 387 F.2d 398, 401, 156 USPQ 130, 132 (CCPA 1967); Syntex v. U.S. Patent and Trademark Office, 882 F.2d 1570, 1571 n.3, 11 USPQ2d 1866, 1867 n.3 (Fed. Cir. 1989); Litton Sys., Inc. v. Whirlpool Corp., 728 F.2d 1423, 1439, 221 USPQ 97, 107 (Fed. Cir. 1984).

earliest filing date that can be accorded to the instant application under the patent statute.[4]

This application is being forwarded to Technology Center 1700

Inquiries regarding this communication may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[4] The USPTO lacks the discretion or the authority to contravene any requirement of the patent statute. Baxter Int'l. Inc. v. Mcgaw Inc., 149 F.3d 1321, 47 USPQ2d 1225 (Fed. Cir. 1998), That is, since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute. See A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977).

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW 04-03

Paper No. 5

MASON, MASON & ALBRIGHT
2306 SOUTH EADS STREET
P.O. BOX 2246
ARLINGTON VA 22202

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APR 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Bruce Archibald Short	:	
Application No. 09/987,772	:	DECISION REFUSING STATUS
Filed: 15 November, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 4059/19	:	

This is in response to the petition filed on 15 January, 2003, under 37 CFR 1.47(b).

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 15 November, 2001, without an executed oath or declaration.

Accordingly, on 15 August, 2002, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring the statutory basic filing fee, an executed oath or declaration and a surcharge for their late filing.

In response, on 15 January, 2003, the present petition was filed, accompanied by the statutory basic filing fee and the late filing surcharge, and a declaration naming Bruce Archibald Short as the sole inventor and signed by Simon Robert Ward, Director, A. Ward Attachments, Ltd. on behalf of the non-signing inventor. A three (3) month time extension in accordance with 37 CFR 1.136(a) was

also filed.

Petitioners assert that a copy of the declaration was personally presented to the non-signing inventor, but that the inventor refused to sign it.

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).

As to item (1), petitioners have not presented 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. The declaration of Simon Robert Ward does not state whether the application papers were presented to Short prior to the refusal. If the application as filed was presented to Short, any renewed petition should so state.

Alternatively, if the application is sent to the non-signing inventor, petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor at the inventor's last known address or details given in an affidavit or declaration of facts by a person with first-hand knowledge of the details.

If an inventor refuses in writing to sign the declaration, petitioners should submit that written refusal with any renewed petition. If an inventor refuses orally, then the person to whom that oral refusal was made must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (5), petitioners have not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the

subject matter to justify the filing of the application.[1]

Petitioners may establish proprietary interest by filing a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(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 1.47(b) applicant.

In regards to item (6), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

The Office is construing Simon Robert Ward's title as "Director" to mean he is a corporate officer of the assignee. If he is not a corporate officer, then proof of his authority to sign on behalf of the corporation must be submitted.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(f).

[2] MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

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1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

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NOV 19 2003

OFFICE OF PETITIONS

In re Application of	:	
Bruce Archibald Short	:	
Application No. 09/987,772	:	DECISION ACCORDING STATUS
Filed: 15 November, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 4059/19	:	

This is in response to the renewed petition filed on 30 October, 2003, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioners have shown that a copy of the application was presented to the non-signing inventor. The inventor, however, refused to sign and return the declaration naming him as the sole inventor. Additionally, petitioners have shown proprietary interest by showing that an assignment from the inventor to petitioner A. Ward Attachments, Ltd. has been filed in the USPTO. Lastly, petitioner has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the change of correspondence address and associate power of attorney filed on 30 October, 2003, is acknowledged.

The application file is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW 11-03

Bruce Archibald Short
18 Dampier Street
Avondale Auckland
NEW ZEALAND

COPY MAILED

NOV 1 9 2003

OFFICE OF PETITIONS

In re Application of
Bruce Archibald Short
Application No. 09/987,772
Filed: 15 November, 2001
For: CONNECTION APPARATUS

Dear Mr. Short:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

AT&T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748

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MAY 2 0 2003
OFFICE OF PETITIONS

In re Application of :
Justin Che-I Chuang et al :
Application No. 09/987,775 : DECISION GRANTING PETITION
Filed: November 15, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 003493.00033 :

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 November 15, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of 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 2681 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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AT&T Corporation
P. O. Box 4110
Middletown, NJ 07748

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AUG 16 2005

OFFICE OF PETITIONS

In re Application of :
Justin Che-I Chuang, et al. :
Application No. 09/987,775 :
Filed: November 15, 2001 :
Attorney Docket No. 003493.00033 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/094,933 filed March 31, 2005.

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. 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 the undersigned at (571) 272-3223.

The application file is being referred to the Files Repository.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

cc: Law Firm of Peter V.D. Wilde
301 East Landing
Williamsburg, VA 23185

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

ANTHONY CASTORINA
G.E. EHRLICH (1995) LTD.
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

COPY MAILED

MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of :
Paul Kleinberger, et al. :
Application No. 09/987,793 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. 01/22875 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 7, 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 23, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 24, 2002.

Receipt is acknowledged of the Terminal Disclaimer filed March 7, 2003, with 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 2800, Art Unit 2872 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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ANTHONY CASTORINA
G.E. EHRLICH (1995) LTD.
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

COPY MAILED

DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Paul Kleinberger, et al. :
Application No. 09/987,793 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. 01/22875 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b).**" This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The instant petition is signed by Yosh Mantinband. Petitioner is advised that amendments and other papers filed in the application must be signed by:

> (1) An attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
> (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
> (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or
> 5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If Mr. Mantinband is signing the petition on behalf of an assignee, petitioner is advised that, in order for an assignee or other party in interest to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office

file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Blank copy of 37 CFR 3.73(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANTHONY CASTORINA
G.E. EHRLICH (1995) LTD.
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of :
Paul Kleinberger, et al. :
Application No. 09/987,793 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. 01/22875 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

Since this application was abandoned for failure to timely reply to the Final Office action of October 28, 2003 within the extendible six-month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the subsequent action taken by the examiner, i.e., mailing of the Non-Final Office Action, has been ratified. In view thereof, it is unnecessary to either vacate or remail the Non-Final Notice of December 23, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 2800, Art Unit 2872 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DEC 16 2004

OFFICE OF PETITIONS

POSZ & BETHARDS, PLC
11250 ROGER BACON DRIVE
SUITE 10
RESTON VA 20190

In re Application of :
Nobuyuki Teraura et al :
Application No. 09/987,795 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. 11-072 :

This is a decision on the petition, filed December 15, 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 23, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology.Center AU 3653 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 07-06

Paper No: __

JUNEAU PARTNERS
P.O. BOX 2516
ALEXANDRIA VA 22301

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of :
Tarighi, et al. :
Application No. 09/987,915 : DECISION
Filing Date: 16 November, 2001 :
Attorney Docket No.: 9578-002-27 :

This is a decision on the petition filed on 28 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

The Revocation/Power of attorney filed hereby is acknowledged and entered.

Petitioner does not appear to have been Counsel of Record at the time the instant application went abandoned, and, therefore, cannot attest to the nature of the abandonment, whether unintentional or otherwise. Statements to this effect can be made

only by the Applicant(s), Assignee at the time of abandonment and/or Counsel of Record at the time of abandonmemnt.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 9 September, 2004, with reply due absent extension of time on or before 9 December, 2004;
- the application went abandoned after midnight 9 December, 2004;
- the record reflects not a single Status Inquiry nineteen (19) months between abandonment and the filing of the instant petition;
- the Office mailed the Notice of Abandonment on 25 May, 2006;
- on 28 June, 2006, Petitioner filed with the instant petition (and fee), a reply in the form of an Election–however, because Petitioner was not of record at the time the application went abandoned, Petitioner is not in a position to make such a statement as to the nature of the delay–and must obtain the statement of former Counsel (of record at the time of abandonment) and/or of Applicant(s) or Assignee(s);

Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[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.

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

---

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[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.

the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Because Petitioner appears not to have been of record at the time the instant application went abandoned, Petitioner is not able to aver as to the unintentional nature of the abandonment.

To this end, Petitioner further must provide a statement by an attorney of record at the time the application went abandoned and/or the Applicant(s) and/or the Assignee(s) as to the unintentional nature of that event.

Therefore, it appears as of this writing that Petitioner has yet to satisfy the "showing/statement" requirement under the regulation.

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[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

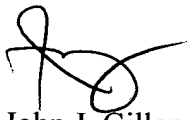
Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information, see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JJGJR.: 04-07

Paper No: __

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APR 23 2007

OFFICE OF PETITIONS

JUNEAU PARTNERS
P.O. BOX 2516
ALEXANDRIA VA 22301

In re Application of :
Tarighi, et al. :
Application No. 09/987,915 : DECISION
Filing Date: 16 November, 2001 :
Attorney Docket No.: 9578-002-27 :

This is a decision on the petition filed on 15 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was received by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 9 September, 2004, with reply due absent extension of time on or before 9 December, 2004;

- the application went abandoned after midnight 9 December, 2004;
- the record reflects not a single Status Inquiry nineteen (19) months between abandonment and the filing of the instant petition;
- the Office mailed the Notice of Abandonment on 25 May, 2006;
- on 28 June, 2006, Petitioner filed with the original petition (and fee), a reply in the form of an Election–however, because Petitioner was not of record at the time the application went abandoned, Petitioner was not in a position to make such a statement as to the nature of the delay–and the petition was dismissed for submission of the statement of former Counsel (of record at the time of abandonment) and/or of Applicant(s) or Assignee(s);
- the instant petition, including statements of the inventor and the assignee seek to cure prior deficiencies.

Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(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).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 2600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[7] 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] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/16/09

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09987918 Patent No.: 7181064

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

You can fax the Director's SPE response to 571-270-9991

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.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

VIKRAM BALI
SPE

2624
Art Unit

PAGE 1/1 * RCVD AT 11/19/2009 3:24:16 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-34

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.usp

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Patent No. 7,207,057	:	
Issue Date: April 17, 2007	:	
Application No. 09/987,943	:	DECISION ON PETITION
Filed: November 16, 2001	:	
Attorney Docket No. 530842-0000000	:	

This is a decision on the petition under 37 CFR 1.182, filed July 14, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

SEP 15 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of:
Hee-Chun Park
Application Serial No.: 09/987,950
Filed: November 16, 2001
For: **METHOD AND SYSTEM FOR DISPLAYING A USER INTERFACE OF AN APPLICATION PROGRAM IN A COMPUTER SYSTEM, AND A RECORDING MEDIUM THEREOF**

DECISION ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181, filed on July 26, 2005 requesting the withdrawal of the requirement to label Figure 4 as "Prior Art".

The petition is GRANTED.

A review of the record indicates that Figure 4 as originally filed and discussed was referred to as a "conventional" method for developing application and basic program. The original disclosure did not indicate that the figure was prior art. Hence, in keeping with the disclosure and applicant's arguments, the requirement to label this figure as "Prior Art" is withdrawn.

Mark R. Powell, Director
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.

Scott D. Balderston
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006

COPY MAILED

MAY 13 2005

OFFICE OF PETITIONS

In re Application of :
Bjorn Bengtsson :
Application No. 09/987,991 :
Filed: November 16, 2001 :
Atty Docket No. 59589.000028 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST (APPLICATION) FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed November 30, 2004. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to one hundred twenty-eight (128) 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 two hundred **(200)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 31, 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 November 30, 2004, applicant timely[1] submitted an application for patent term

[1] PALM records indicate that the Issue Fee payment was also received on November 30, 2004.

adjustment (with required fee). Applicant asserts entitlement to a patent term adjustment of 128 days on the basis that i) the Office did not mail a first action under 35 U.S.C. 132 until, April 9, 2003, 14 months and 11 days, after the application fulfilled the requirements of 35 U.S.C. 371, on January 29, 2002; and ii) the Office mailed the notice of allowance on August 31, 2004, four months and 117 days, after receipt of their response to Office action filed January 6, 2004.

Applicant states that this patent is not subject to a terminal disclaimer.

A review of the application history confirms that the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on April 9, 2003, is 83 days. The instant application was filed on November 16, 2001 under 35 U.S.C. 111(a), not under 35 U.S.C. 371. Thus, this period was counted 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), January 17, 2003, and ending on the date of the mailing of the first action under 35 U.S.C. 132, April 9, 2003. Applicant erred in calculating this period as they used a beginning date of March 29, 2003, fourteen months after January 29, 2002, the date of filing of their response to the Notice to File Missing Parts of Application.

However, applicant is correct that a period of adjustment of 117 days, and not a period of reduction of 192 days, should have been entered. Applicant's response to the non-final rejection mailed October 6, 2003, was accepted as having been received in the Office by facsimile transmission on January 6, 2004. This was within the three-month period set forth in § 1.704(b). (The response was re-supplied on July 16, 2004, with evidence of timely submission on January 6, 2004). Thus, entry of a period of reduction of 192 days is not warranted.

Moreover, the Office did not mail a response until August 31, 2004. Using the date of receipt of the response, January 6, 2004, the period of Office delay is 117 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is two hundred (200) days (117 + 83 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

/Karin Ferriter/ for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Attachment: Copy of Revised PAIR

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:	
Shui-On Leung et al	:	
Serial No.: 09/988,013	:	WITHDRAWAL OF ATTORNEY
Filed: November 16, 2001	:	
Attorney Docket No.: 018733-1082	:	

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

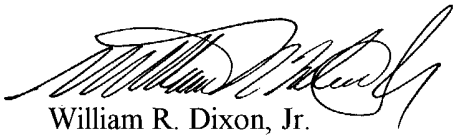
37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.



William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Otsuka, et al. :
Application No. 09/988,017 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No.: 43887-168 :

The above-identified application has been referred to the Office of Petitions for consideration of the response filed February 19, 2002 in response to the Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed February 8, 2002. This response is being treated as a petition to accord this application a filing date of November 16, 2001.

The application was filed November 16, 2001. The Notice mailed February 8, 2002 by the Office of Initial Patent Examination notified applicant that the application had been accorded a filing date but that the application appeared to have been deposited without Page 31 of the specification.

Petitioner argues for withdrawal of the Notice on the basis that the application as deposited included Page 31 of the specification. Petitioner has included as proof of mailing and proof of receipt of Page 31 a return postcard date stamped November 16, 2001 by the Office. A copy of the original Page 31 of the specification purportedly filed with the application on November 16, 2001 has been supplied.

The original Page 31 of the specification submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of November 16, 2001 is GRANTED.

Since the original Page 31 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

The petition fee of $130.00 submitted with the instant petition is unnecessary. A refund from the Finance Office, Refund Section, has been requested on petitioner's behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 16, 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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

Jonathan D. Baskin
C/o Edwards & Angell, LLP
PO Box 9169
Boston, MA 02209

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JUL 14 2003

OFFICE OF PETITIONS

In re Application of :
Dan A. Steinberg et al. :
Application No. 09/988,055 : ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. A1148.0000/P008 :
(51948)

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to Notice to File Missing Parts (Notice) mailed December 5, 2001, which set a shortened statutory period for reply of (2) TWO MONTHS. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 6, 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 2872 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 26, 2006

TO SPE OF : ART UNIT 2133

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/988059 Patent No.: 6,950,972 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. *110*

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE 2133 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOUNDRY NETWORKS, INC.
LEGAL DEPARTMENT
4980 GREAT AMERICA PARKWAY
SANTA CLARA CA 95054

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OCT 2 2 2008

OFFICE OF PETITIONS

In re Application of :
Ronak PATEL et al. :
Application No. 09/988,066 : DECISION ON PETITION
Filed: November 16, 2001 :
Attorney Docket No. **FDRY-0004.1-CIP-US** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 31, 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). A (2) two month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 01, 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 $1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of October 31, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 2616 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

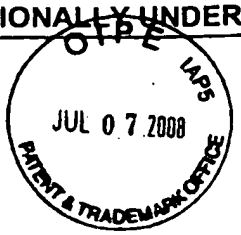
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

IFW DAC

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it 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)
FDRY-0004.1-CIP-US



First named inventor: Ronak Patel

Application No.: 09/988,066

Art Unit: 2616

Filed: November 16, 2001

Examiner: Mew, Kevin D

Title: BACKPLANE INTERFACE ADAPTER WITH ERROR CONTROL AND REDUNDANT FABRIC

RECEIVED
JUL 16 2008
OFFICE OF PETITIONS

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 $ 1,540.00 (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 Request for Continued Examination (RCE) Transmittal (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith. 07/08/2008 TLUU11 00000026 09988066

B. The issue fee and publication fee (if applicable) of $ 01 FC:1453 1540.00 OP.
☐ 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.

James E Parsons
Signature

July 1, 2008
Date

James E. Parsons
Typed or printed name

34,691
Registration Number, if applicable

Foundry Networks, Inc. - Legal Department
Address

408.207.1323
Telephone Number

4980 Great America Parkway, Santa Clara, CA 95054
Address

Enclosures:
☑ Fee Payment
☑ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☑ Other: Request for Continued Examination (RCE) Transmittal

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.

July ~~June~~ 1, 2008
Date

Debra Wells
Signature

Debra Wells
Typed or printed name of person signing certificate

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09988066 Total Records Found: 15

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
07/08/2008	00000049	1	1453	$1,540.00	07/07/2008	CK
07/08/2008	00000050	1	1801	$810.00	07/07/2008	CK
04/01/2008	00000163	1	1252	$4.00	03/31/2008	CC
04/01/2008	00000164	1	1252	$456.00	03/31/2008	CC
08/15/2007	00000161	1	1806	$180.00	08/15/2007	CC
08/09/2007	00000015	1	1251	$120.00	08/09/2007	CC
01/19/2007	00000126	1	1253	$1,020.00	01/19/2007	CC
01/19/2007	00000127	1	1806	$180.00	01/19/2007	CC
08/08/2002	00000078	1	581	$40.00	08/02/2002	CK
08/05/2002	00000066	1	122	$130.00	08/02/2002	CK
01/31/2002	00000266	1	581	$40.00	01/28/2002	CK
01/31/2002	00000057	1	101	$740.00	01/28/2002	CK
01/31/2002	00000058	1	102	$252.00	01/28/2002	CK
01/31/2002	00000059	1	103	$72.00	01/28/2002	CK
01/31/2002	00000060	1	105	$130.00	01/28/2002	CK

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

DEC 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Ronak Patel, et al.	:	
Application No. 09/988,066	:	DECISION GRANTING PETITION
Filed: November	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 019959-006511US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 20, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
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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CREW, LLP
TWO EMBARCADERO CENTER
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SAN FRANCISCO CA 94111-3834

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of :
Patel et al. :
Application No. 09/988,066 :
Filed: November 16, 2001 :
Attorney Docket No. 019959-006511US :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed March 3, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand seven hundred sixty-eight (1768) days, not eight hundred thirty-one (831) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely 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 patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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 matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Ronak Patel	: DECISION ON REQUEST FOR
Patent Number	: 7596139	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/988,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/16/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1656** 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Ronak Patel
Patent Number : 7596139
Issue Date : 09/29/2009
Application No: 09/988,066
Filed : 11/16/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1743** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Paper No. 9

Richard E. Kurtz, II
GREENBERG TRAURIG, LLP
1750 Tysons Boulevard
Suite 1200
McLean, VA 22102

MAILED

OCT 1 0 2003

Technology Center 2100

In re Application of:
Michael A. Goldstein et al.
Application No. 09/988,069
Filed: November 16, 2001
For: SYSTEM AND METHODS FOR WEB BROWSER BASED DOCUMENT SCANNING, REMOTE STORAGE AND RETRIEVAL

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed September 26, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed September 26, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Mr. Michael Goldstein
My-e-surveys.com, LLC.
SAMSON INFORMATION TECHNOLOGIES, LLC
Suite 710
97-77 Queens Blvd.
Rego Park, NY 11374

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JUN 0 7 2006

OFFICE OF PETITIONS

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of :
Robl, et al. : DECISION ON APPLICATION
Application No. 09/988,115 : FOR PATENT TERM ADJUSTMENT
Filed: November 16, 2001 :
Atty. Dkt. No: 50195/008003 :
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705" filed November 4, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

The correct PTA at the time of the allowance is zero days as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed October 21, 2005.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application, mailed October 21, 2005, indicated that the PTA to date is zero days. The instant application for patent term adjustment was timely filed November 4, 2005. Applicants request that the PTA be corrected from zero days to reflect an adjustment of 59 days. Applicants acknowledge that as of the time of allowance, an adjustment of 260 days can be attributed to the Office. Applicants, however, argue that applicants' delay totals 201 days rather than 323 days.

Applicants have acknowledged the following reductions as true and correct: 16 days under 37 CFR 1.704(b) in connection with the response submitted August 5, 2005; and, 94 days under 37 CFR 1.704(b) in connection with the response submitted January 31, 2005.

Further reductions are required as detailed herein.

The adjustment of 260 days is further reduced 94 days in accordance with 37 CFR 1.704(b) in connection with the response submitted June 6, 2002 in response to the Notice of File Missing Parts mailed December 4, 2001. The reduction began March 5, 2002, the day after the date that is three months after the date

that the Notice to File Missing Parts was mailed, and ended June 6, 2006, the date of receipt of the response thereto.

It is noted that applicants in this regard acknowledge a reduction of 91 days, stating that the response was submitted June 3, 2002. It is noted that the response bears a certificate of mailing date of June 3, 2002, however, the response is date stamped as received in the USPTO on June 6, 2002. The date indicated on any certificate of mailing or transmission under 1.8 shall not be taken into account in the instant calculation of PTA. *See* 37 CFR 1.704(f).

The adjustment is further reduced 61 days in accordance with 37 CFR 1.704(c)(7) in connection with the response submitted August 6, 2002. The reduction began June 7, 2002, the day after the date that the reply having an omission was filed, and ended August 6, 2002, the date that the reply or other paper correcting the omission was filed.

Applicants have argued in this regard that the Notice to Comply with Sequence Listing Requirements, mailed June 24, 2002, indicated that applicants' diskette was "Damaged." Applicants further argue that this damage "likely resulted from security procedures at the PTO and was not the result of Applicant error or delay."

Applicants argument has been considered but is not found convincing. The Notice to Comply with Sequence Listing Requirements indicated that applicants' diskette was damaged and/or unreadable. There is no indication in the official record that any damage to the disk or unreadability of the disk is attributable to any action or inaction on the part of the Office. Accordingly, the submission of the reply on August 6, 2002 is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(7).

The adjustment of 260 days is further reduced 58 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement (IDS) submitted June 9, 2004. The reduction began April 13, 2004, the day after the date a response to the election/restriction requirement was filed, and ended June 9, 2004, the date the IDS was filed.

Applicants have argued that the submission of the IDS was timely filed and was not submitted either less than one month before the mailing of an Office Action, after the filing of a

substantive reply, after a decision by the Board of Appeals, or after a Notice of Allowance in accordance with 37 CFR 1.704(d).

In accordance with 37 CFR 1.704(c)(8), submission of a supplemental reply or other paper, i.e., IDS, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed is deemed a failure to engage in reasonable effort to conclude prosecution.

Moreover, a written restriction requirement, a written election of species requirement, a requirement for information under 37 CFR 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. *See* MPEP 2731.

A reply to the election/restriction requirement was filed April 12, 2004. The IDS was filed thereafter on June 9, 2004. Accordingly, submission of the IDS is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(8).

Accordingly, at the time of allowance, the application is entitled to an adjustment of zero days, as indicated in the Notice of Allowance mailed October 21, 2005.

The Office acknowledges receipt of the required $200.00 application fee.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

/Kery A Fries/

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Date Calculator Result

From 06/06/2002 to 08/06/2002 is 61 days.

New calculation

Date Calculator Result

From 03/04/2002 to 06/06/2002 is 94 days.

New calculation

OIPE IAP59
NOV 0 4 2005
PATENT & TRADEMARK OFFICE

PATENT
ATTORNEY DOCKET NO. 50195/008003

Certificate of Mailing: Date of Deposit: November 1, 2005

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Colleen Coyne
Printed name of person mailing correspondence

Colleen Coyne
Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	James M. Robl et al.	Art Unit:	1632
Serial No.:	09/988,115	Examiner:	D. Crouch
Filed:	November 16, 2001	Customer No.:	21559
Title:	TRANSGENIC BOVINE COMPRISING HUMAN IMMUNOGLOBULIN LOCI AND PRODUCING HUMAN IMMUNOGLOBULIN		

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

In response to the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) set forth on the Issue Notification mailed on October 21, 2005 in connection with the above-captioned patent application, Applicants hereby request reconsideration of the patent term adjustment. Applicants submit that the current patent term adjustment should be 59 days (i.e., a 260 day period of Patent Office delay reduced by a 201 day period of Applicant delay as detailed below).

In support of this application, Applicants first summarize crucial dates and actions

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that resulted in patent term adjustment. The present application was filed on November 16, 2001 and the first action under 35 U.S.C. § 132, a Restriction Requirement, was not mailed until September 11, 2003. The mailing of the restriction requirement was 238 days later than fourteen months from the filing date of the application, resulting in 238 days of patent term adjustment. 37 CFR 1.703(a)(1). A second Restriction Requirement was then mailed March 9, 2004, 22 days later than the four month period allowed for a subsequent PTO Action. 37 CFR 1.703(a)(2). The total Office delay was therefore 260 days, as correctly indicated by PAIR (copy enclosed).

Applicant delay occurred in connection with three submissions. A Reply to a non-final Office Action of July 29, 2004 was submitted on January 31, 2005, a delay of 94 days. A Reply to a final Office Action of April 20, 2005 was submitted on August 5, 2005, a delay of 16 days. And a Reply to Notice of Missing Parts of December 4, 2001 was submitted on June 3, 2002, a delay of 91 days, resulting in a total Applicant delay of 201 days.

It is the calculation of Applicant delay by the PTO with which Applicants disagree. As indicated on the accompanying PAIR summary, the Office has assessed a delay of 155 days for Applicants' Reply to the Notice of Missing Parts mailed December 4, 2001. This calculation is in error. The Notice of Missing Parts mailed December 4, 2001 required the submission of a sequence listing, executed inventor declarations, and substitute drawings. The executed declarations and substitute drawings were submitted

on June 3, 2002 and account for a 91 day Applicant delay. The remaining submission, the sequence listing, was mailed by Applicants on February 7, 2002 and date-stamped as received by the PTO on March 11, 2002. A copy of the date-stamped postcard is enclosed; PAIR does not indicate receipt of this submission. On June 24, 2002, the Office mailed a further Notice to Comply with Sequence Listing Requirements, indicating that Applicants' sequence diskette was "Damaged." Given the timing of this submission, this damage likely resulted from security procedures at the PTO and was not the result of Applicant error or delay. Also, the indication in PAIR that this mailing was due to "SEQUENCE ERRORS" is incorrect, as the Office required a new submission solely due to the damaged diskette. As Applicants provided a new diskette on August 6, 2002, no Applicant delay should be assessed in connection with any of the sequence listing submissions. The PAIR indication of 155 days of Applicant delay in connection with the Reply to Notice to File Missing Parts is in error and should instead be 91 days.

In addition, the Office has assessed a 58 day period of Applicant delay in connection with the filing of an Information Disclosure Statement on June 9, 2004. This assessment of Applicant delay is also in error, as this IDS was timely filed and was not submitted either less than one month before the mailing of an Office Action (which occurred on July 29, 2004), after the filing of a substantive reply (which occurred on January 31, 2005), after a decision by the Board of Appeals, or after a notice of allowance (which occurred on October 21, 2005). 37 CFR 1.704(d). It appears that the Office may

have inadvertently confused Applicants' Reply to the second Restriction Requirement with a Reply to a first substantive Office Action. This assessment of 58 days of Applicant delay should be withdrawn.

In addition, Applicants note that the present patent is not subject to a Terminal Disclaimer.

CONCLUSION

Applicants submit that the current patent term adjustment should be 59 days and request reconsideration of the patent term adjustment.

Enclosed is a check in the amount of $200.00 for the fee set forth in 37 C.F.R. § 1.18(e). If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 01 November 2005

Karen L. Elbing, Ph.D.
Reg. No. 35,238

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045

UNITED STATES PATENT AND TRADEMARK OFFICE

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CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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SEP 30 2008

OFFICE OF PETITIONS

Issued: July 11, 2006 : DECISION ON APPLICATION
Application No. 09/988,115 : FOR PATENT TERM ADJUSTMENT
Filed: November 16, 2001 : and NOTICE OF INTENT TO
Atty. Dkt. No: 50195/008003 : ISSUE CERTIFICATE OF
: CORRECTION

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705" filed June 21, 2006. This matter is being treated as a request for reconsideration of the decision mailed June 7, 2006 dismissing the application for patent term adjustment under 37 CR 1.705(b) filed November 4, 2005.

The request for reconsideration of decision on application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The above-identified application matured into U.S. Patent No. 7,074,983 on July 11, 2006. The patent issued with 68 days of patent term adjustment. On November 4, 2005, an application for PTA under 37 CFR 1.705(b) was filed. The application was dismissed June 7, 2006 with an indication that the PTA at the time of mailing of the Notice of Allowance was zero days. The instant request for reconsideration was timely submitted. Patentees continue to contest the reduction in connection with the CRF disk filed August 6, 2002.

Patentees' arguments have been carefully considered and found convincing. Entry of a period of reduction of 155 days pursuant to 37 CFR 1.704(b) for applicant delay in responding to the Notice to File Missing Parts of Application mailed December 4, 2001 is incorrect. Review of the record reveals that the Notice to File Missing Parts of Nonprovisional Application required

applicants to provide an executed declaration, late surcharge, substitute

drawings and an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application, and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicants state that their disk was sent to the Office on February 7, 2002; however, the disk is present in the Office with a date of receipt of March 11, 2002. Regardless of the date of receipt of a disk, applicants did not file a complete response to the Notice to File Missing Parts within the three-month period provided in 37 CFR 1.704(b). The declaration, late surcharge and substitute drawings, and other responses to the Notice were not filed until June 6, 2002. Thus, the period of reduction pursuant to 37 CFR 1.704(b) for applicant delay is 94 days (e.g., March 5, 2002 to June 6, 2002). The period of reduction of 155 days has been removed and the period of reduction of 94 days has been entered.

Entry of a period of reduction pursuant to 37 CFR 1.704(c)(7) for filing a response with an omission is not warranted. The Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, mailed June 24, 2002, notified applicants that the disk received March 11, 2002 was damaged and set a new period of time in which to comply. Applicants resubmitted the disk in reply to the Notice on August 9, 2002[1]. Upon resubmission, applicants stated that the contents are identical to that filed on February 7, 2002.

In view thereof, the correct adjustment at the time of issuance of the patent is 129 days (adjustments totaling 391 days less reductions totaling 262 days).

No further fees are due in connection with this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction

[1] with a certificate of mailing dated August 6, 2002.

to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 129 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,074,983 B2
DATED	:	July 11, 2006
INVENTOR(S)	:	Robl, 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 68 days

Delete the phrase "by 68 days" and insert – by 129 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 12-01

Paper No. 3

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

COPY MAILED

DEC 3 1 2001

OFFICE OF PETITIONS

In re Application of :
Montalvo, Escobar, and Willem :
Application No. 09/988,125 : DECISION REFUSING STATUS
Filed: 19 November, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 6530.0253-00 :

This is in response to the petition filed under 37 CFR 1.47(a) on 19 November, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 19 November, 2001, with a declaration naming Richard Montalvo, Ceasar Escobar, and Curt Willem as joint inventors and signed by joint inventor Willem on behalf of himself and joint inventors Montalvo and Escobar. The present petition was also filed with the application.

Petitioners assert that a copy of the application papers was sent via Federal Express to joint inventors Montalvo and Escobar. The application sent to joint inventor Montalvo, assert petitioners was returned as undeliverable. The application sent to joint inventor Escobar was not returned. Petitioners also state that neither inventor could be reached by telephone.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2). In regards to item (1), petitioners have not provided proof that diligent efforts have been made to locate the non-signing inventor.[1] With regard to joint inventor Montalvo, petitioners should submit a copy of the envelope or other correspondence from Federal Express showing that the application was returned as undeliverable.

Additionally, with regards to joint inventor Escobar, a brief Internet search reveals that he may now be residing at a different address in Miami, FL. Petitioners should verify the last known address for joint inventor Escobar and, if joint inventor Escobar is determined to be residing at a different address, send a copy of the application (specification, including claims, drawings, if any, and the declaration) to him at that address. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the

[1] MPEP 409.03(d).

refusal in an affidavit or declaration of facts. If the application is returned as undeliverable, petitioners should present a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office.

In regards to item (2), the declaration submitted with the application papers is defective in that it does not specify the mailing address, residence, and citizenship for joint inventors Montalvo and Escobar. In situations where an inventor does not execute the oath or declaration and the inventor is not deceased, such as in an application filed under 37 CFR 1.47, the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary. Additionally, the mailing address for joint inventor Willem is incomplete in that it does not include the city, state, and ZIP Code designation. The complete mailing address must be provided in a new oath or declaration. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 is required with any renewed petition.

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.

DI 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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DIW 05-02

Paper No. 8

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

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MAY 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Montalvo, Escobar, and Willem :
Application No. 09/988,125 : DECISION ACCORDING STATUS
Filed: 19 November, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 6530.0253-00 :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 18 April, 2002.

The petition is **GRANTED**.

It is noted that one of the previously non-signing inventors, Cesar Escobar, has now signed the declaration. Additionally, petitioners have shown that the non-signing inventor, Richard Montalvo, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, via the declaration of Kathleen Cronin, that a copy of the above-identified application was sent to the non-signing inventor's address. Additionally several phone calls were placed to the non-signing inventor. The inventor, however, has failed to return an executed declaration naming him as a joint inventor along with Cesar Escobar and Curt Willem.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

As no petition fee is due for reconsideration, the petition fee of $130.00 charged with the present petition is unnecessary and will be credited to counsel's deposit account, No. 06-0916.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Norman F Oblon
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

APR - 6 2004

In re Application of	:	
Yashihiko Yano et al	:	DECISION ON PETITION
Serial No.: 09/988,144	:	UNDER 37 C.F.R. §1.181
Filed: November 19, 2001	:	
For: EL Phosphor Multilayer Thin	:	
Film and EL Device	:	

This is a decision on the petition filed, February 18, 2004, under 37 CFR 1.181, requesting consideration of the Information Disclosure Statement filed on January 7, 2004. Request for a copy of Information Disclosure Statement is not a petitionable matter. It is of note that the examiner has not denied consideration of the references cited on the IDS.

The petition is DISMISSED as moot.

However, a copy of signed and initialed form PTO-1449 acknowledging the inclusion and consideration of the references cited on the IDS is attached herewith.

James L Dwyer, 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

Paper No. 3

Andrea Reister
Covington & Burling
1201 Pennsylvania Ave., N. W.
Washington, DC 20004

In re Application of:
Burns et al.
Application No. 09/988,151
Filed: November 19, 2001

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 January 14, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 on behalf of himself alone. There is no outstanding Office action which requires a response.

The request is **APPROVED**.

All future communications from the Office will be directed to Andrea Reister, at the address indicated above until otherwise notified by applicant.

Inquiries related to this decision should be directed to Michael L. Gellner at 703-308-1721.

M. L. Gellner

Michael L. Gellner, Special Programs Examiner

Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 8

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of :
John K. Thomas, et al. :
Application No. 09/988,219 : DECISION GRANTING PETITION
Filed: November 19, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TCOM-0002-1 :

This is a decision on the petition, filed October 21, 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**.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on September 25, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2661 for examination in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERT PLATT BELL
REGISTERED PATENT ATTORNEY
P.O. BOX 310
AURORA NY 13026-0310

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Nevin et al.	:	
Application No. 09/988,234	:	ON PETITION
Filed: November 19, 2001	:	
Attorney Docket No. NEVIN-0001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 9, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (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 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:06092005

DATE : June 9, 2005

TO SPE OF : ART UNIT 3663

SUBJECT : Request for Certificate of Correction on Patent No.: 09988304

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:

THOMAS G. BLACK
SUPERVISORY PATENT EXAMINER
GROUP 3600

SPE: Black, Thomas **Art Unit** 3663

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 21

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OFFICE OF PETITIONS
ON PETITION

In re Application of
Hiroomi Matsuzaki
Application No. 09/988,342
Filed: November 19, 2001
Attorney Docket No. 684.3286

This is a decision on the petition, filed 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 July 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ONE METROPOLITAN SQUARE
16th FLOOR
ST LOUIS, MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
Pallas et al.	:	
Application No. 09/988,352	:	DECISION ON APPLICATION
Filed: November 19, 2001	:	FOR
Attorney Docket No. MTC 6801	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)," filed June 6, 2006. Applicants request correction of the patent term adjustment from zero (0) days to an estimate of four hundred twenty-four (424) 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

[1] Applicants otherwise agree with the adjustments and reductions of record at the time of the mailing of the notice of allowance.

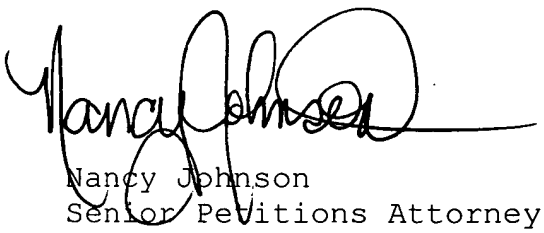
within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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OCT 16 2006

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Bryon Scott Derringer	:	
Application No. 09/988,376	:	DECISION ON PETITION
Filed: November 19, 2001	:	TO WITHDRAW
Attorney Docket No. 54080-00601	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 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 to withdraw less than all attorneys appointed by customer number 22852 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will be directed to the below-listed address in view of the "Change Of Correspondence Address" submitted on May 19, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
BYRON SCOTT DERRINGER
11006 AMHERST AVENUE
WHEATON MD 20902

19 APR 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SCHWEGMAN, LUNDBEG, WOESSNER & KLUTH
PO Box 2938
Minneapolis, MN 55402

In re Application of SHERMAN, David H., et al U.S. Application No.: 09/988,384 Attorney's Docket No.: 600.438WO1 For: DNA ENCODING METHMYCIN AND PIKROMYCIN	:	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This decision is issued in response to applicant's "Petition To Revive PCT As To The U.S." filed with respect to international application PCT/US99/14398 on 19 November 2001. Deposit Account No. 19-0742 will be charged the required $640 petition fee.

BACKGROUND

International application PCT/US99/14398 became abandoned as to the United States under 35 U.S.C. 371(d) at midnight on 26 December 2000 (thirty months after the priority date) for failure to pay the basic national fee.

On 19 November 2001, applicant filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/US99/14398, and the petition to revive international application PCT/US99/14398 considered herein. The petition to revive was filed for the purpose of establishing continuity between the international application and the present continuation application.

DISCUSSION

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicant's statement that "[a]bandonment of the international application was unintentional and the entire delay in filing the U.S. national stage application was also unintentional" is interpreted as the statement required by 37 CFR 1.137(b)(3) that "the entire delay in filing the 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is **not** a correct interpretation of the petition, applicants **must** inform this Office immediately.

The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c). International application PCT/US99/14398 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/988,384.

RECEIVED
APR 26 2004
OIPE/JCWS

04/21/2004 CSMOOT 00000001 190743 09988384
Sale Ref: 00000001 DA#: 190743 09988384
01 FC:2453 640.00 DA

CONCLUSION

The petition to revive is **GRANTED.**

International application PCT/US99/14398 is hereby revived for purposes of continuity, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 09/988,384.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (703) 308-6155
Facsimile: (703) 308-6459

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APR 26 2004
OIPE/JCWS

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, VA 20165

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Ritsuko Kawasaki, et al. :
Application No. 09/988,389 : ON PETITION
Filed: November 19, 2001 :
Attorney Docket No. 0756-2393 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 21, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 2, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated May 30, 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 2818 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 13

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of
Anthony Cake, et al.
Application No. 09/988,42[illegible]
Filed: November 16, 2001
Attorney Docket No. 455610-2490

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 8, 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 September 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2676 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY MD 21043

COPY MAILED

AUG 28 2006

OFFICE OF PETITIONS

In re Patent of	:	
Chun-Pu Hsu	:	
Application No. 09/988,426	:	DECISION
Filed: November 20, 2001	:	ON PETITION
Attorney Docket Number:	:	
MR2349-730	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed November 22, 2005. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 12, 2003. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). Applicant filed a reply on November 25, 2003; however, the reply failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action, mailed January 20, 2004. No timely and proper reply having been received, the application became abandoned April 25, 2005. A Notice of Abandonment was mailed April 16, 2004.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of the Amendment filed November 25, 2003.

This application is being returned to Technology Center 2834 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

A review of the application does not reveal any errors in patentees' favor in the calculation of the patent term adjustment. To the extent that patentees are aware of any specific error in the PTA calculation, patentees should so advise the Office.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. 5

SYLVAIN BOUDREAU
SUITE 1607
4050 ROSEMONT BLVD.
MONTREAL, QC H1X 1M4
CANADA

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DEC 17 2003

OFFICE OF PETITIONS

In re Application of :
Savard et al. :
Application No. 09/988,475 :
Filed: November 20, 2001 :
Title of Invention: :
MANEUVERABLE AND ADJUSTABLE :
LAWN MOWER HAVING AN EDGING- :
TRIMMING UNIT :

This is a decision on the petition under 37 CFR 1.137(a), filed December 1, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 15, 2003. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned April 16, 2003. A Notice of Abandonment was mailed on September 11, 2003.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a

notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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 items (1) and (3).

Applicant's Assertion

Applicant asserts that a timely reply was filed via facsimile transmission on April 14th, 2003. Applicant further avers receipt of confirmation of a successful transmission "from the fax machine." *Petition* at p.3. Applicant further avers that, once he was informed that the facsimile transmission had not been received, he sent records of the facsimile transmission along with a signed certificate of transmission and a resend of of [their] original Office Action reply to fax number 703-872-9302. *Id.* No copies of the putative facsimile transmission were filed with the instant petition.

Initially it is noted that, when the documents were not received by the maximum extendable period for reply, the application became abandoned. Once the application became abandoned, subsequent filings of the documents were inadequate to revive the application, and a petition for revival was required.

Analysis of the instant petition

As to item (1), Applicant has not submitted a reply to the January 15, 2003 Office action. Applicant must submit a reply to the Office action as part of the requirement for granting a petition under 37 CFR 1.137.

As to item (3), Applicant has not provided an adequate showing of unavoidable delay. Petitioner is advised that there are three provisions wherein this Office will consider correspondence as being timely filed. The first method, applicable here[1], is under 37 CFR 1.8, which provides that

> correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
>
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to the expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR 1.8.

Conclusion

If Applicant has complied with one of the three methods wherein this Office considers correspondence as being timely filed as

---

[1] The other two methods are under 37 CFR 1.10, which provides for the filing of papers and fees by "Express Mail", and under section 503 of the Manual for Patent Examining Procedure ("MPEP"), by enclosing with the paper a self-addressed postcard specifically identifying the item.

set out above, Applicant should submit such evidence in a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

SYLVAIN BOUDREAU
SUITE 1607
4050 ROSEMONT BLVD.
MONTREAL, QC H1X 1M4
CANADA

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Savard et al. :
Application No. 09/988,475 :
Filed: November 20, 2001 :
Title of Invention: :
MANEUVERABLE AND ADJUSTABLE :
LAWN MOWER HAVING AN EDGING- :
TRIMMING UNIT :

Decision on Petiton

This is a decision on the petition under 37 CFR 1.137(a), filed April 16, 2004, which is being treated as a Request for Reconsideration of Petition under 37 CFR 1.137(a), to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive the above-identified application (under 37 CFR 1.137(a)), must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addressed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 15, 2003. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned April 16, 2003. A Notice of Abandonment was mailed on September 11, 2003.

A petition under 37 CFR 1.137(a), filed December 1, 2003, was dismissed in a Decision mailed December 17, 2003, for failing to

meet the requirements of a grantable petition under 37 CFR 1.137(a). In the December 1, 2003 petition, Applicant asserted that a timely reply was filed via facsimile transmission on April 14th, 2003. Applicant further averred receipt of confirmation of a successful transmission from the fax machine.

Applicant was advised that the reply to the Office action was not included in the petition and the reply must be submitted. Applicant was further advised if Applicant has complied with one of the three methods wherein this Office considers correspondence as being timely filed, Applicant should submit such evidence in a renewed petition.

The instant Request for Reconsideration

Applicant files the instant Request for Reconsideration and an Amendment and proposed corrected drawings putatively timely filed on April 13, 2003 via facsimile. In support of the assertion that the response top the Office action was timely filed, Applicant files a copy of the Certificate of Transmission, dated April 14, 2003, the bottom of which is written

> Amendment A
> 09/988,475

Applicant also provides a copy of a Certificate of Transmission, dated August 13, 2003, the bottom of which notes which is written

> fax to 703 872 9326
> for application 09/988,475
>
> 8 pages -Amendment A
> -intro
> -.

Finally, Applicant files a copy of a fax logbook wherein Applicant notes a line dated April 14, 2003 and containing the telephone number 1-703-872-9302. Applicant avers that the logbook proves timely transmission by facsimile of the response to the Office action.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**)the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**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 items (1) and (3).

Analysis

A review of the logbook entry for the facsimile putatively sent on April 14, 2003, reveals that the facsimile telephone number is incorrect. The telephone number entered into the log is 1-703-872-9302. The correct telephone number for facsimile receipt is 703-872-9306.

Moreover, a review of the Certificate of Transmission, dated August 13, 2003 reveals that the Certificate of Transmission also contains an incorrect facsimile telephone number. The telephone number listed on the Certificate of Transmission is 703 872 9326; the telephone number for facsimile receipt is 703-872-9306.

Finally, a review of the application file reveals that neither of the facsimile transmissions was received in this Office, as neither of the putative facsimile transmissions has been located in the application file.

Conclusion

The evidence has been considered but it fails to demonstrate that the reply to the January 15, 2003 Office action was timely and properly filed by Applicant.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to show that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee, currently $665.00 for a small entity.

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 reinstate 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 reinstatement under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 9

SYLVAIN BOUDREAU
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MONTREAL, QC H1X 1M4
CANADA

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JUL 15 2004
OFFICE OF PETITIONS

In re Application of :
Savard et al. :
Application No. 09/988,475 :
Filed: November 20, 2001 : ON PETITION
Title of Invention: :
MANEUVERABLE AND ADJUSTABLE :
LAWN MOWER HAVING AN EDGING- :
TRIMMING UNIT :

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137, filed June 24, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.137(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 15, 2003. The Notice set a statutory period for reply of three (3) months. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned April 16, 2003. A Notice of Abandonment was mailed on September 11, 2003.

A petition to revive the application based upon an unavoidable delay, filed December 1, 2003, was dismissed by this Office in a Decision mailed December 17, 2003, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

A Request for Reconsideration of Petition to revive the application based upon an unavoidable delay, filed April 16, 2004, was dismissed by this Office in a Decision mailed April 26, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(a).

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(a). An Amendment in response to the January 15, 2003, Office accompanies this petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3671 for processing of the Amendment, filed with the instant petition, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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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Dessa O. Clinton
Medical Inventions
200 Peale Court
Cibolo, TX 78108

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DEC 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 6,892,733	:	
Issue Date: May 17, 2005	:	
Application No. 09/988,481	:	ON PETITION
Filed: November 19, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 15, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 18, 2009, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

Carl Friedman
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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ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

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OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Tsuyoshi Asano :
Application No. 09/988,499 :
Filed: November 19, 2001 :
Attorney Docket No. 990891A :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition filed July 21, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/JP98/05962, filed December 25, 1998).

The petition under 37 CFR 1.78 (a) (3) is **dismissed** as moot.

The Amendment to add a claim for priority to PCT Application No. PCT /JP98/05962 reads as follows:

> "This application is a Continuation in Part of prior application Serial No. 09/367,936, filed August 24,1999, now abandoned, which was the 35 USC 371 National Stage of International Application No. PCT/JP98/05962, filed December 25, 1998."

As set forth in MPEP 1893.03(c), page 1800-149, a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate.

It is noted that the Filing Receipt received by petitioner did not include the fact that Application No. 09/367,936 is the national stage of international Application No. PCT/JP98/05962. Accordingly, a corrected Filing Receipt accompanies this decision on petition.

In view of the dismissal of the instant petition as moot, the $1330.00 petition fee submitted on July 21, 2004, is unnecessary and will be refunded to petitioner's Deposit Account No. 01-2340.

Any questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
220 20th Street S
Customer Window, Mail Stop Petitions
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229.

This matter is being referred to referred to Technology Center Art Unit 1732.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Nixon Peabody LLP
P.O. Box 60610
Palo Alto, CA 94306

Mail Date: 04/21/2010

Applicant	: Jean-Pierre Mao	: DECISION ON REQUEST FOR
Patent Number	: 7586928	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/988,527	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/20/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1165** 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)
6,648,224	2003-11-18	09988531	2001-11-20	3092-251

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-08-02
Name	Bruce H. Troxell	Registration Number	26592

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6648224
Issue Date: November 18,2003
Application No. 09988531
Filed: November 20,2001
Attorney Docket No. BHT-3092-251

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
Nobuaki Ogushi, et al. :
Application No. 09/988,573 : ON PETITION
Filed: November 20, 2001 :
Atty Docket No. 862.1896 D1 :

This is a decision on the petition, filed October 12, 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 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2125 for further processing of the request for continued examination under 37 CFR 1.114 filed October 12, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 01-03

Paper No. 5

R. NEIL SUDOL
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

COPY MAILED

JAN 0 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Tullio Gonzaga	:	
Application No. 09/988,635	:	ON PETITION
Filed: 20 November, 2001	:	
Attorney Docket No. R23-002	:	

This is a decision on the petitions filed under 37 CFR 1.55(c) and 1.183 on 15 July, 2002 (certificate of mailing date 25 June, 2002).

The petition under 37 CFR 1.183 is dismissed.

The petition under 37 CFR 1.55(c) is granted.

Petitioners request waiver of the provisions 37 CFR 1.55(a) and that the Office accept a delayed claim of the benefit of a prior filed foreign application under 35 U.S.C. § 119. Petitioners assert that on 19 November, 2001, an application claiming priority to Italian Patent Application No. VR2000A000115, filed on 20 November, 2000, was deposited in USPS Express Mail to the USPTO, but that the USPS returned the application as undeliverable on 20 November, 2001, because of the temporary suspension of Express Mail Service to Washington, D.C. during November, 2001. Petitioners further explain that the claim of benefit required by 37 CFR 1.55(a)(1) was not timely filed because:

> In our haste to prepare a new transmittal, necessitated by the late refusal of the USPS to deliver the application to the PTO, we inadvertently omitted the claim for priority to the Italian Patent Application.

Considered under 37 CFR 1.183, petitioners arguments are not persuasive. 37 CFR 1.183 permits the Commissioner to waive a rule when extraordinary circumstances exist and justice requires waiver of the rule.

37 CFR 1.183 states:

> 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 Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed.[1] Petitioner has not shown that either condition exists in this case.

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.[2] Waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[3]

That is, a lack of knowledge of, or the failure to properly apply, the patent statutes, rules of practice, and procedures before the USPTO is not an adequate basis for requesting extraordinary relief. Specifically, circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief.[4] Likewise, clerical inadvertence or error is not a ground for requesting waiver of the regulations.[5]

---

[1] In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

[2] See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

[3] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

[4] See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[5] See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

While the delay in accepting Express Mail, and the extra effort expended by petitioners, is regretted, it is unclear why petitioners chose to claim priority on an application transmittal sheet rather than in the oath or declaration, Application Data Sheet (ADS), or a preliminary amendment. If one of the latter had been done, the predicament which has now occurred could have been avoided because none of those documents would have needed to be revised prior to the second filing of the application papers.

Moreover, although petitioners state that they have been waiting for a substitute declaration signed by the inventor claiming priority to the Italian application, petitioners have not explained why the claim for priority was not timely filed within four (4) months of the filing date of the present application.

In summary, as the showing of record is that the priority claim was not timely filed as a result of petitioners' lack of diligence, the petition under 37 CFR 1.183 will be dismissed.

As the petition under 37 CFR 1.183 is dismissed, the surcharge required for the petition under 37 CFR 1.55(c) will not be refunded.

Petition Under 37 CFR 1.55(c)

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge of $1,280.00, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the

claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The above-identified pending nonprovisional application was filed on 20 November, 2001, which is after 29 November, 2000 and within 12 months of 20 November, 2000, which is the earliest filing date of the foreign applications to which benefit is claimed. The Application Data Sheet filed on 18 December, 2002, also identifies the foreign applications for which priority is claimed. Petitioner has also included a statement that the English translation filed with the present petition is a "faithful and true translator (*sic*) into English" of the Italian application. Pursuant to petitioner's authorization, the $1,280.00 surcharge has been charged to counsel's deposit account, No. 15-0450. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition is **granted.**

This application is being returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt that will include the foreign priority claims and projected publication date for the above-identified application.

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BRAD STONE @ STONE TOOLS
24 COTTONWOOD DRIVE
SYLVAN LAKE, AB T45-1H3
CANADA

COPY MAILED

MAR 2 6 2003

OFFICE OF PETITIONS

In re Application of
D. Bradley Stone
Application No. 09/988,654
Filed: November 20, 2001
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 mailed January 28, 2002. The Notice set a period for reply of two (2) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 29, 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

Best Available Copy

Pg - IDC No. 7

QUERY CONTROL FORM				RTIS USE ONLY	
Application No.	09/988,694	Prepared by	JML	Tracking Number	05697246
Examiner-GAU	Ramirez — 3632	Date	12-27-02	Week Date	12-16-02
		No. of queries	-1-	E	

JACKET			
a. Serial No.	f. Foreign Priority	k. Print Claim(s)	p. PTO-1449
b. Applicant(s)	g. Disclaimer	l. Print Fig.	q. PTOL-85b
c. Continuing Data	h. Microfiche Appendix	m. Searched Column	r. Abstract
d. PCT	i. Title	n. PTO-270/328	s. Sheets/Figs
e. Domestic Priority	j. Claims Allowed	o. PTO-892	t. Other

SPECIFICATION

a. Page Missing
b. Text Continuity
c. Holes through Data
d. Other Missing Text
e. Illegible Text
f. Duplicate Text
g. Brief Description
h. Sequence Listing
i. Appendix
j. Amendments
k. Other

CLAIMS

a. Claim(s) Missing
b. Improper Dependency
c. Duplicate Numbers
d. Incorrect Numbering
e. Index Disagrees
f. Punctuation
g. Amendments
h. Bracketing
i. Missing Text
j. Duplicate Text
k. Other

MESSAGE

Claim 11 has improper dependency.

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JAN 02 2003
Publishing Division
13

Please Advise

Thank you

initials JML

RESPONSE corrected - dlf

initials

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)
6,761,897	2004-07-13	09/988,702	2001-11-20	VAL10232P00190US

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)
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SURCHARGE

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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

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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

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	/Mark Polyakov/	Date (YYYY-MM-DD)	2008-10-28
Name	Mark Polyakov	Registration Number	54377

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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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)).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6761897
Issue Date: July 13,2004
Application No. 09988702
Filed: November 20,2001
Attorney Docket No. A8174

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 28,2008 ,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 28,2008 . 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JJGJr: 10-0

Paper No. 5

HALE AND DORR, LLP
60 STATE STREET
BOSTON MA

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Payapali :
Application No. 09/988,728 : ON PETITION
Filed: 20 November, 2001 :
Attorney Docket No.: 111.465.132 :
(PROV 104/118/216)

This is a response to the paper styled as a "Petition to Request [a 16 November, 2001], Filing Date,"filed on 14 December, 2001, which is being treated as a submission under 37 C.F.R. §1.10(d) requesting that the above-identified application be accorded a filing date of 16 November, 2001, rather than the presently accorded filing date of 20 November, 2001.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

Petitioner requests the earlier filing date on the basis that the application purportedly was deposited in an Express Mail drop box on 16 November, 2001, pursuant to the requirements of 37 C.F.R. §1.10. In support, petitioner relies upon:

- a declaration, in which petitioner's counsel states that the application was deposited in Express Mail, Label number EL538702903US;
- a copy of a USPS form letter dated 16 November, 2001, discussing the interruption of service;
- a copy of the Express Mail label set forth above as purportedly returned to the Petitioner by the USPS; and
- a copy of a "Verification of Mailing by Express Mail, dated (Sunday) 18 November, 2001, regarding the deposit of the article in question on (Friday) 16 November, 2001.

Presumably, Petitioner theorizes that the correspondence was given an incorrect filing date due to

the suspension of USPS Express Mail Service for mail addressed to Washington D.C. ZIP Codes 202XX through 205XX during November 2001.

Petitioner's attention is directed to the following guidance recently published in the *Official Gazette* of the U.S. Patent and Trademark Office regarding the suspension of Express Mail service:

> In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 C.F.R. §1.10(d) may apply. Usually 37 C.F.R. §1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 C.F.R. §1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP §513 and TMEP §702.02(e).[1] (Emphasis added.)

Therefore, the petition is properly treated under 37 C.F.R. §1.10(d).

Reviewing the regulation:

- Paragraph (a) of 37 C.F.R. §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.[2] (Emphasis added.)

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[1] 1253 O.G. 103, 1254 O.G. 33

Similar insight is provided in the Question/Answer discussion published by the Office at http://www.uspto.gov/september11/uspsnotice01.htm:

> Where mail is put into an Express Mail "Drop Box" and given an incorrect "date in[.]"
>
> In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 C.F.R. §1.10(d) may apply. Usually 37 C.F.R. §1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 C.F.R. §1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP §513 and §TMEP 702.02(e). (Emphasis added.)

[2] See 37 C.F.R. §1.6(a).

- Paragraph (d) of 37 C.F.R. §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 § 10.1(r) of this chapter.

The instant petition lacks the showing required by 37 C.F.R. §1.10(d)(3).

Petitioner's showing is not accompanied by any corroborating evidence from the USPS.

Moreover, Petitioner did not provide a copy of a mail log purporting to show that an Express Mail package with Label No. EL538702903US, the same Express Mail number placed on the transmittal letter for the response, was deposited in Express Mail on 16 November, 2001.

Accordingly, the petition is **dismissed**.[3]

Any renewed petition must be accompanied by corroborating evidence as above or evidence from the USPS itself.

The application is being forwarded to Technology Center 1600 for examination in due course.

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[3] Pursuant to Petitioner's authorization, the petition fee ($130.00) is being credited to Deposit Account 08-0219.

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

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JJGJr: 11-0

Paper No. 7

HALE AND DORR, LLP
60 STATE STREET
BOSTON MA

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NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Payapali :
Application No. 09/988,728 : ON PETITION
Filed: 16 November, 2001 :
Attorney Docket No.: 111.465.132 :
(PROV 104/118/216)

This is a response to the paper styled as a "Renewed Petition to Request [a 16 November, 2001], Filing Date,"filed on 14 November, 2002, which is being treated as a submission under 37 C.F.R. §1.10(d) requesting that the above-identified application be accorded a filing date of 16 November, 2001, rather than the presently accorded filing date of 20 November, 2001.

The petition is **GRANTED**.

The record demonstrates that the application was deposited with and received by the US Postal Service (USPS) in its Express Mail service, under Express Mail label number EL538702903US, on 16 November, 2001, which is evidenced as described below.

Therefore, the application was and is entitled to a filing date of 16 November, 2001, under the provisions of 37 C.F.R. §1.10.

In the original petition filed on 14 December, 2001, Petitioner requested the earlier filing date on the basis that the application purportedly was deposited in an Express Mail drop box on 16 November, 2001, pursuant to the requirements of 37 C.F.R. §1.10. In support, Petitioner originally relied upon:

- a declaration, in which petitioner's counsel states that the application was deposited in Express Mail, Label number EL538702903US;
- a copy of a USPS form letter dated 16 November, 2001, discussing the interruption of service;
- a copy of the Express Mail label set forth above as purportedly returned to the Petitioner by the USPS; and

- a copy of a "Verification of Mailing by Express Mail, dated (Sunday) 18 November, 2001, regarding the deposit of the article in question on (Friday) 16 November, 2001; and

Petitioner contended that the correspondence was given an incorrect filing date due to the suspension of USPS Express Mail Service for mail addressed to Washington D.C. ZIP Codes 202XX through 205XX during November 2001.

The original petition was dismissed on 30 October, 2002, for failure to demonstrate that the USPS letter was sufficient and timely. and failure to demonstrate the nature of the "verification" in lieu of the postal log book.

Consistent with the requirements of 37 C.F.R. §1.10(d)(3)--Petitioner has supplemented the record with a declaration in support of his contention that the record contains corroborating evidence from the USPS and Counsel's own office practice (in lieu of a postal log book) which came into being within one business day.[1]

As to the instant application, Application No. 09/988,728, the Office of Initial Patent Examination is specifically instructed to:

- assign a filing date of 16 November, 2001, and

- issue a corrected filing receipt specifying the filing date as that of 16 November, 2001.

Therefore, this application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 16 November, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 09/988,728.

The application file will then be forwarded to Technology Center 1600 for examination in due course.

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[1] The following guidance was published in the *Official Gazette* of the U.S. Patent and Trademark Office regarding the suspension of Express Mail service:

> In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 C.F.R. §1.10(d) may apply. Usually 37 C.F.R. §1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 C.F.R. §1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP §513 and TMEP §702.02(e). (Emphasis added.)

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
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UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 02 2003

OFFICE OF PETITIONS

In re Application of
Oyama
Application No. 09/988,768
Filed: November 20, 2001
Attorney Docket No. OGW-0204

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.183

This is a decision on the petition under 37 CFR 1.183 filed November 3, 2003, styled as a petition to accord a claim for foreign priority by way of waiver of the rules, which is also being treated as a petition to waive the rules and accord the above-identified nonprovisional application a filing date of October 27, 2001, instead of the current filing date of November 20, 2001.

The petition is **dismissed.** This decision is not a final agency action.

Applicant filed an application in Japan on October 27, 2000. As such, pursuant to 35 U.S.C. 119(a), any counterpart U.S. nonprovisional application had to be filed in the U.S. within twelve months of that date, *i.e.*, on or before October 27, 2001, in order for the U.S. counterpart application to be able to claim benefit of the foreign application.

Applicant asserts that the original counterpart U. S. application papers were mailed on or about October 19, 2001, from Japan to U.S. counsel's offices with instructions to file the U.S. counterpart before the critical date. However, due to mail delays arising from from the irradiation of U.S. mail out of anthrax concerns, the original counterpart papers were not timely received by counsel's office, with the exception of the priority papers *per se*. Copies of the original counterpart papers were sent by facsimile transmission to U.S. counsel on November 16, 2001, and the copies were, in turn filed at the USPTO on November 20, 2001, which, however, is subsequent to the date required by § 119(a) as a condition of claiming benefit of the foreign filled Japanese application. Petitioner seeks waiver of the rules such that benefit of the Japanese application can be claimed.

Nevertheless, 37 CFR 1.183 is, by its terms, unavailable to waive any requirement of law. Since the instant nonprovisional application papers were not received at the USPTO on or before October 27, 2001, the 12 month filing requirement of § 119(a) is controlling and, as such, a proper claim for benefit simply cannot be acknowledged. Furthermore, the statutory 12 month time period cannot be waived by the USPTO. The

USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the USPTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 USC §§ 112, 120).

If the instant application papers could be accorded a filing date of October 27, 2001, then the 12 month filing requirement of § 119(a) could be satisfied. However, the USPTO also lacks both the discretion and the authority to accord the above-identified nonprovisional application papers a filing date earlier than their admitted date of receipt at the USPTO: November 20, 2001.

35 U.S.C. § 111(a)(4) states that:"[t]he filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office." As such, the filing date is governed by statute: November 20, 29001, the earliest date the instant nonprovisional application papers were received at the USPTO. It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, then strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991). Further as the filing date of this application is governed by statute, an Executive Branch agency like the USPTO must follow the strict provisions of the applicable statute. See A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977). It follows that, as above, 37 CFR 1.183 cannot be properly invoked to the contrary of the applicable statute to change the filing date of the above-identified nonprovisional application papers from November 20, 2001, to October 27, 2001.

Lastly, while the USPTO has posted various notices regarding postal emergencies stemming from the events of September 11, 2001, and the anthrax-caused mail delays, these are of no avail to petitioner. See http://www.uspto.gov/emergencyalerts/index_emergency.html. That is, 35 U.S.C. 21(a), and its implementing regulation 37 CFR 1.10, simply do not apply to the circumstances of this case. First, the remedial provisions of the aforementioned statute and regulation only apply to correspondence deposited with the USPS, or would have been deposited with the USPS, which here means the USPS itself refused, from the onset, to accept the correspondence, or that an extant postal emergency precluded such initial deposit. Here, however the instant correspondence was deposited, in Japan, with the Japanese postal service, and was not deposited with the USPS. Secondly, the correspondence must also be deposited, or attempted to have been deposited, with the Express Mail to Post Office to Addressee service of the USPS, and addressed to the USPTO (not counsel's office), a circumstance that likewise did not occur. It follows that the USPTO lacks the discretion and the authority to consider the instant application papers to have been filed with the USPTO on October 27, 2001, within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10.

Accordingly, since the above-identified nonprovisional application papers were not filed, and cannot be considered to have been filed, at the USPTO within 12 months of the counterpart Japanese application, the requested relief cannot be favorably treated.

Telephone inquiries regarding this decision may 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

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Paper No. 16

Dickstein Shapiro Morin and Oshinsky
2101 L Street, N. W.
Washington, DC 20037-1526

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Kazuyasu Ohashi :
Application No. 09/988,793 : ON PETITION
Filed: November 20, 2001 :
Attorney Docket No. R2180.0113/P113 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) 1.

The application became abandoned for failure to reply in a timely manner to the Notice of Drawing Inconsistency (Notice) mailed May 30, 2003, which set a period for reply of ONE (1) MONTH from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) or (b) were not permitted. Accordingly, the application became abandoned on July 1, 2003.

Applicant's amendment filed with the instant petition will not be entered because it was filed after payment of the issue fee. 37 CFR 1.312 no longer permits filing an amendment after the date the issue fee has been paid. See MPEP 714.16. Accordingly, petitioner may wish to file a petition to withdraw from issue under 37 CFR 1.313(c)(2) and a Request for Continued Examination (RCE) under 37 CFR 1.114, if petitioner desires to have the amendment considered by the Examiner. Otherwise, petitioner should submit drawings that correct the inconsistency stated in the Notice mailed May 30, 2003.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Dickstein Shapiro Morin and Oshinsky
2101 L Street, N. W.
Washington, DC 20037-1526

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By M.S. 4/27/04

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OFFICE OF PETITIONS

TJD/DG

In re Application of :
Kazuyasu Ohashi :
Application No. 09/988,793 : ON PETITION
Filed: November 20, 2001 :
Attorney Docket No. R2180.0113/P113 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) 1.

The application became abandoned for failure to reply in a timely manner to the Notice of Drawing Inconsistency (Notice) mailed May 30, 2003, which set a period for reply of ONE (1) MONTH from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) or (b) were not permitted. Accordingly, the application became abandoned on July 1, 2003.

Applicant's amendment filed with the instant petition will not be entered because it was filed after payment of the issue fee. 37 CFR 1.312 no longer permits filing an amendment after the date the issue fee has been paid. See MPEP 714.16. Accordingly, petitioner may wish to file a petition to withdraw from issue under 37 CFR 1.313(c)(2) and a Request for Continued Examination (RCE) under 37 CFR 1.114, if petitioner desires to have the amendment considered by the Examiner. Otherwise, petitioner should submit drawings that correct the inconsistency stated in the Notice mailed May 30, 2003.

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

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2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 20

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2101 L STREET, NW
WASHINGTON, DC 20037-1526

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MAY 1 4 2004

OFFICE OF PETITIONS

In re Application of
Kazuyasu Ohashi
Application No. 09/988,793
Filed: November 20, 2001
Attorney Docket No. R2180.0113/P113

: DECISION GRANTING PETITIONS
: UNDER 37 CFR 313(c)(2) AND
: 37 CFR 1.137(b)

This is a decision on the petition, filed May 11, 2004, which is being treated both as a renewed petition under 37 CFR 1.137(b) to accept an unintentionally delayed reply and under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.313(c) is **GRANTED**.

As noted in the decision mailed April 26, 2004, this application became abandoned for failure to reply in a timely manner to the Notice of Drawing Inconsistency (Notice) mailed May 30, 2003, which set a period for reply of ONE (1) MONTH from the mail date of the Notice. Extensions of time under the provisions of 37 CFR 1.136(a) or (b) were not permitted. Accordingly, the application became abandoned on July 1, 2003.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice amending the drawing figure; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 30, 2003 is accepted as having been unintentionally delayed.

As the issue fee has been paid, petitioner now seeks to withdraw this application from issue for consideration of a submission in a Request for Continued Examination pursuant to the provisions of 37 CFR 1.114. Accordingly, the above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 5, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The file is being forwarded to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[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).