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JUN 30 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,411,595 : ON PETITION
Georgiev : under 37 CFR 1.183
Issue Date: August 12, 2008 :
Application No. 09/996,200 : and
Filed: November 28, 2001 :
Attorney Docket No.. 07844- : ON REQUEST FOR RECONSIDERATION
495001 : OF PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on December 22, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On August 12, 2008, the above-identified application matured into U.S. Patent No. 7,411,595, with a revised patent term adjustment of 1273 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, in view of the "exceptional" situation presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008).

**ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)**

The above-referenced patent issued on August 12, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until December 22, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (emphasis added).*

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that

no such request for reconsideration was filed by October 12, 2008, the date two months from the date this patent issued, August 12, 2008. Rather, on December 22, 2008, almost three months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures¹ include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As

¹ 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b) (37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e) (37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is the "exceptional" situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008). Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days." Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)², Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for

² 35 U.S.C. 154(b)(4)(A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION.

– (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

The key consideration in determining whether waiver is warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition petitioner's unexplained nearly two-month delay, after the issuance of the Opinion in Wyeth, in filing the petition weighs against them.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is dismissed.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

**ON REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)**

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed December 22, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to one thousand four hundred fifty-eight (1,458) days.

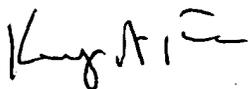
On August 12, 2008, the above-identified application matured into U.S. Patent No. 7,411,595 with a revised patent term adjustment of 1,273 days. The instant request for reconsideration was filed more than four months after the issuance of the patent, on December 22, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly dismissed as untimely filed.

CONCLUSION

The request for waiver of 37 CFR 1.705(d) pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Emailed me — 5/28/09

Attorney's Docket No.: 07844-0495001 / P459

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Todor Georgiev
Patent No. : 7,411,595
Issue Date : August 12, 2008
Serial No. : 09/996,200
Filed : November 28, 2001
Title : TOOL FOR EXTRACTING AND MANIPULATING COMPONENTS OF
WARPING TRANSFORMS

Art Unit : 2628
Examiner : Ryan R. Yang
Conf. No. : 1276

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

PETITION UNDER 37 C.F.R. §1.183 — 12/22/08

Assignee hereby petitions the Commissioner under 37 C.F.R. §1.183 for a suspension of 37 C.F.R. §1.705(d) and (e) and for acceptance of the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," which is filed with this petition, to correct the erroneous patent term adjustment (PTA) calculation. Assignee may lose 185 days in the life of its patent through no fault of its own, seriously prejudicing Assignee in fully enforcing its statutory patent rights if this petition is not granted.

The above titled patent was issued on August 12, 2008. At the time of the issuance, the Office interpreted the law in a way that did not support correcting the PTA calculation. In fact, the applicant made an earnest attempt to follow the rules and law as have been set forth by the Office. On September 30, 2008, the U.S. District Court for the District of Columbia issued an opinion in *Wyeth v. Dudas* (*Wyeth et al. v. Jon W. Dudas*, U.S. District Court, D.C., CA No. 07-1492, Mem. Op. September 30, 2008), which made clear that the Office's method for calculating the PTA was in error. As a result of this change in the law, which occurred more than one month after the above entitled patent issued, petitioner could not reasonably have timely presented a request for reconsideration of the patent term adjustment.

This case presents the rare instance where the Office's application of the rules has been overturned by the courts. In such exceptional cases, it would be manifestly unjust to punish those who made an earnest attempt to comply with the laws and regulations as interpreted by the PTO.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the United States Patent and Trademark Office using the EFS -WEB system on this date: December 22, 2008

Applicant : Todor Georgiev
Patent No. : 7,411,595
Issued : August 12, 2008
Serial No. : 09/996,200
Filed : November 28, 2001
Page : 2 of 2

Attorney's Docket No.: 07844-0495001 / P459

Please apply the \$400.00 fee required under 37 C.F.R. § 1.17(f) and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: December 22, 2008

/Spencer C. Patterson/

Spencer C. Patterson

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Todor Georgiev
Patent No. : 7,411,595
Issue Date : August 12, 2008
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Examiner : Ryan R. Yang
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P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent application. The Issue Notification mailed July 23, 2008 for the above-referenced application indicates that the Patent Term Adjustment at issuance is 1273 days. Reconsideration of the Patent Term Adjustment calculation to increase PTO Delay from 1414 days to 1599 days, and to increase Total PTA from 1273 to 1458 days, is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR system shows that the United States Patent and Trademark Office (PTO) calculated the Patent Term Adjustment (PTA) as follows:

- 1) The PTO mailed a delayed 14-month first non-final Office Action on October 1, 2003, thereby according a PTO Delay of 246 days. Applicant does not dispute herein this patent term adjustment calculation for this PTO "A Delay."
- 2) The PTO mailed a delayed Examiner's Answer to Appeal Brief on March 21, 2005, thereby according a PTO Delay of 37 days. Applicant does not dispute herein this patent term adjustment for PTO Delay.
- 3) The PTO mailed a delayed response to the Reply Brief on February 10, 2006, thereby according a PTO Delay of 144 days. Applicant does not dispute herein this patent term adjustment for PTO Delay.

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the United States Patent and Trademark Office using the EFS -WEB system on this date: December 22, 2008

12/22/08

Applicant : Todor Georgiev
Patent No. : 7,411,595
Issued : August 12, 2008
Serial No. : 09/996,200
Filed : November 28, 2001
Page : 2 of 4

Attorney's Docket No.: 07844-0495001 / P459

- 4) Applicant filed a response to the miscellaneous communication on March 8, 2006 (received at the PTO on March 13, 2006). Applicant was accorded a delay of 2 days. Applicant does not dispute herein this patent term adjustment for Applicant Delay.
- 5) The PTO mailed a BPAI Decision on Appeal in favor of the applicant on February 22, 2007, thereby according a PTO Delay of 984 days. Applicant does not dispute herein this patent term adjustment for PTO Delay.
- 6) The PTO mailed a delayed non-final Office Action on September 27, 2007, thereby according a PTO Delay of 3 days. Applicant does not dispute herein this patent term adjustment for PTO Delay.
- 7) Applicant filed an Information Disclosure Statement on February 20, 2008 (received at the PTO on February 20, 2008). Applicant was accorded a delay of 55 days for a supplemental response. Applicant does not dispute herein this patent term adjustment for Applicant Delay.
- 8) Applicant filed formal drawings after the Notice of Allowance on May 21, 2008 (received at the PTO on May 21, 2008) and a response to the Notice of Allowance on June 25, 2008 (received at the PTO on June 25, 2008). Applicant was accorded a delay of 84 days for a submission after allowance. Applicant does not dispute herein this patent term adjustment for Applicant Delay.
- 9) The application was filed on November 28, 2001 and the patent issued on August 12, 2008, more than three years later. No PTO Delay was calculated for issuance of the patent after three years from filing. Applicant respectfully submits that the PTO's calculation of this PTO "B Delay" contains an error and that the correct PTO Delay for issuance beyond three years from filing is 185 days, as outlined further below. The "B Delay" of 185 days does not include the additional PTO Delay of 1168 days after three years from filing, which overlaps with the "B Delay".

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REMARKS

Applicant has calculated the PTA in accordance with the clear intent of Congress. As outlined in *Wyeth v. Dudas* (*Wyeth et al. v. Jon W. Dudas*, U.S. District Court, D.C., CA No. 07-1492, Mem. Op. September 30, 2008), the only way that periods of time can “overlap” is if they occur on the same day, and if an “A delay” occurs on one calendar day and a “B delay” occurs on another, they do not overlap, and 35 U.S.C. § 154(b)(2)(A) does not limit the extension to one day. “A Delays” are defined as delays by the Office under 35 U.S.C. 154(b)(1)(A), which guarantees prompt PTO response. “B Delays” are defined as delays by the Office under 35 U.S.C. § 154(b)(1)(B), which guarantees no more than 3-year application pendency.

The PTA for the instant patent, as currently calculated and shown on the face of the patent, relies on the premise that the application was delayed under § 154(b)(1)(B) before the initial three-year period expired.

The *Wyeth* court determined that this construction cannot be squared with the language of § 154(b)(1)(B), which applies “if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years,” and that “B delay” begins once the PTO has failed to issue a patent within three years, not before.

In the current PTA calculation, the Office has only given credit for the larger of “A Delay” or “B Delay,” rather than the combined sum of “A Delay” and “B Delay” (which does not include any days after three years from filing where “A” and “B” delays overlap).

In this patent, “A Delay” should be calculated as 246 days, and “B Delay” should be calculated as 185 days. Including the additional PTO Delay, the total PTO Delay should be calculated as 1599 days.

In consideration of the events described above, Applicant believes the PTA calculation of 1273 days is incorrect. As such, Applicant respectfully requests reconsideration of the patent term adjustment in the following manner:

- 1) Total PTO Delay should be calculated as 1599 days;
- 2) Total Applicant Delay should be calculated as 141 days; and
- 3) Total PTA should be calculated as 1458 days.

Applicant : Todor Georgiev
Patent No. : 7,411,595
Issued : August 12, 2008
Serial No. : 09/996,200
Filed : November 28, 2001
Page : 4 of 4

Attorney's Docket No.: 07844-0495001 / P459

Applicant notes that this patent is not subject to a terminal disclaimer.

Please apply the fee of \$200 required under 37 C.F.R. § 1.18(e) and any other required charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: December 22, 2008

/Spencer C. Patterson/

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PALM INTRANET

PTA Calculations for Application: 09/996200

Application Filing Date:	11/28/2001	PTO Delay (PTO):	1414
Issue Date of Patent:	08/12/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	141
Post-Issue Petitions:	0	Total PTA (days):	1273
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85.5	07/23/2008	PTA 36 MONTHS			
85	08/12/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
84	07/15/2008	EXPORT TO FINAL DATA CAPTURE			
83	07/14/2008	DISPATCH TO FDC			
82	06/25/2008	RESPONSE TO REASONS FOR ALLOWANCE			
81	06/25/2008	MISCELLANEOUS INCOMING LETTER		49	
80	06/26/2008	DISPATCH TO FDC			
79	06/26/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
78	06/25/2008	ISSUE FEE PAYMENT VERIFIED			
77	06/25/2008	ISSUE FEE PAYMENT RECEIVED			
76	05/21/2008	WORKFLOW - DRAWINGS FINISHED		35	
75	04/24/2008	FINISHED INITIAL DATA CAPTURE			
74	03/28/2008	EXPORT TO INITIAL DATA CAPTURE			
73	03/25/2008	MAIL NOTICE OF ALLOWANCE			
72	03/18/2008	ISSUE REVISION COMPLETED			
71	03/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	03/17/2008	NOTICE OF ALLOWABILITY			
69	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		55	59
68	03/14/2008	DATE FORWARDED TO EXAMINER			
67	02/20/2008	SUPPLEMENTAL RESPONSE			
63	02/20/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	02/20/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

Handwritten notes on the right side of the table:

- Checkmarks (✓) next to rows 85, 76, 72, 71, 70, 69, 68, 67, 63, 62.
- Arrows pointing to rows 85, 76, 72, 71, 70, 69, 68, 67, 63, 62.
- Handwritten text: "draws" (next to row 76), "5/20/08 resp" (next to row 69).

61	01/23/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
60	01/12/2008	DATE FORWARDED TO EXAMINER			
59	12/27/2007	RESPONSE AFTER NON-FINAL ACTION			
58	09/27/2007	MAIL NON-FINAL REJECTION	3		55
57	09/27/2007	NON-FINAL REJECTION			
56	05/30/2007	DATE FORWARDED TO EXAMINER			
55	05/24/2007	RESPONSE AFTER NON-FINAL ACTION			
54	04/25/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
53	04/24/2007	MISCELLANEOUS ACTION WITH SSP			
52	02/22/2007	MAIL BPAI DECISION ON APPEAL - AFFIRMED IN PART	984		37
51	02/22/2007	BPAI DECISION - EXAMINER AFFIRMED IN PART			
50	11/24/2006	DOCKETING NOTICE MAILED TO APPELLANT			
49	11/22/2006	ASSIGNMENT OF APPEAL NUMBER			
48	11/14/2006	APPEAL AWAITING BPAI DOCKETING			
47	10/06/2006	MAIL REPLY BRIEF NOTED BY EXAMINER			
46	10/02/2006	REPLY BRIEF NOTED BY EXAMINER			
45	08/03/2006	DATE FORWARDED TO EXAMINER			
44	07/13/2006	REPLY BRIEF FILED			
43	07/25/2006	DATE FORWARDED TO EXAMINER			
42	07/13/2006	REPLY BRIEF FILED			
41	05/16/2006	MAIL SUPPLEMENTAL EXAMINER'S ANSWER			
40	05/12/2006	2ND OR SUBSEQUENT EXAMINER'S ANSWER TO APPEAL BRIEF			
39	03/22/2006	DATE FORWARDED TO EXAMINER			
38	03/13/2006	APPEAL BRIEF FILED			
37	06/14/2004	NOTICE OF APPEAL FILED		2	16
36	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
35	02/10/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT	144		28
34	02/06/2006	MISCELLANEOUS ACTION WITH SSP			
33	11/14/2005	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
32	10/18/2005	APPEAL AWAITING BPAI DOCKETING			
31	08/10/2005	MAIL REPLY BRIEF NOTED BY EXAMINER			
30	08/08/2005	REPLY BRIEF NOTED BY EXAMINER			

Handwritten notes and checkmarks on the right side of the table:

- Checkmarks (✓) next to rows 58, 52, 37, and 36.
- Handwritten numbers: 4400, 47, 5, and 2.
- Handwritten symbols: a question mark (?) and a checkmark (✓) near row 37.
- Handwritten initials: "ms" at the bottom right.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

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APR 03 2003

In re Application of
Chin-Ti Chen et al
Application No. 09/996,202
Filed: November 28, 2001
Attorney Docket No. 08919-053001

: OFFICE OF PETITIONS
:
:
: ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.182, filed January 16, 2003, to change the order of the names of the inventors.

The petition is granted.

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

- 1. Chin-Ti Chen
- 2. Hsiu-Chih Yeh
- 3. Li-Hsin Chan
- 4. Rong-Ho Lee

A corrected filing receipt with the desired order of inventorship is enclosed.

The application file is being forwarded to Technology Center AU 1774.

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

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

Enclosure: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 03 2006

OFFICE OF PETITIONS

In re Patent No. 7,001,182 :
Issued: 21 February, 2006 :
Application No. 09/996,211 : ON PETITION
Filed: 28 November, 2001 :
Atty Dckt No. P/1336-156 :

This is a decision on the petition filed on 9 January, 2006, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

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


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹See Official Gazette of 22 June, 2004.



UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON HINE LLP
2000 COURTHOUSE PLAZA N.E.
10 WEST SECOND STREET
DAYTON, OH 45402-1758

COPY MAILED

JUN 17 2004

In re Application of
Whitby et al.
Application No. 09/996,221
Filed: November 28, 2001
Attorney Docket No. 006593-1908

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 28, 2004, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed September 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 25, 2003. A Notice of Abandonment was mailed May 5, 2004.

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

- (1) the required reply,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition, under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.

1 In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

2 See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The Amendment submitted to the Examiner on May 28, 2004 failed to place the above-identified application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. The Advisory Action issued by the Examiner is enclosed.

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

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

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 existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

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

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

**THOMPSON HINE LLP
2000 COURTHOUSE PLAZA N.E.
10 WEST SECOND STREET
DAYTON, OH 45402-1758**

COPY MAILED

AUG 19 2004

OFFICE OF PETITIONS

In re Application of :
Whitby et al. :
Application No. 09/996,221 : **ON PETITION**
Filed: November 28, 2001 :
Attorney Docket No. 006593-1908 :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 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 final Office action mailed September 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on December 25, 2003. A Notice of Abandonment was mailed on May 6, 2004.

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

The matter is now being referred to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3206.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/19/05

Paper No.:

TO SPE OF : ART UNIT 3721

SUBJECT : Request for Certificate of Correction on Patent No.: 6851250 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

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:

Since there is only one defined path for the food products to be
conveyed to the wrap station, "the path" is "the defined path."
The certificate of correction is denied because it doesn't make the
claims anymore definite than ~~them~~ they are now presented.

Rinaldi I. Rada
Supervisory Patent Examiner
SPE Group 3700

3721
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

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, NY 11553

In re Application of :
Steinbichler et al. :
Serial No.: 09/996,239 :
Filed: November 23, 2001 : **DECISION ON PETITION**
For: PROCESS AND APPARATUS FOR : **UNDER 37 C.F.R. §1.181**
RECORDING THE DEFORMATION :
OF OBJECTS :

This is a decision on the petition under 37 C.F.R. §1.181 filed on February 9, 2004 to withdraw the finality of the Office action mailed December 5, 2003. The petition was timely filed within two months of the mailing of the final rejection by way of Certificate of Mailing under 37 C.F.R. §1.8 dated February 5, 2004 and included therein.

The petition is **GRANTED**.

The record indicates that applicant's REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION filed on January 13, 2004 by facsimile transmission was received on the same day by the Patent and Trademark Office (PTO). Regretfully, the request never did reach the primary examiner for consideration.

The petition is granted for the reasons stated by applicant in the petition. The finality of the Office action dated December 5, 2003 is withdrawn and prosecution is reopened. However, the shortened statutory period continues to run from December 5, 2003 as also noted by applicants on page 3 of the petition. Any amendments from applicants must be submitted by June 5, 2004 with appropriate extensions of time.



Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components



THOMPSON HINE L.L.P.
P.O. BOX 8801
DAYTON OH 45401-8801

COPY MAILED

OCT 12 2006

In re Application of
Schaefer et al.
Application No. 09/996,244
Filed: November 28, 2001
Title: Trapping and Storage of Free Thermal
Neutrons in Fullerene Molecules

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 20, 2006.

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

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. An Appeal Brief was filed on May 14, 2004. An advisory action was mailed on August 23, 2004. A Notice of Non-Compliance with 37 CFR 1.192 was mailed on September 8, 2004, providing petitioner with a one month reply period. An appeal brief was filed on October 8, 2004. A Notice of non-compliant brief was mailed on February 16, 2005, setting an extendable one month period of reply. A supplemental appeal brief was submitted on March 18, 2005. A Notice of abandonment was mailed on June 20, 2006.

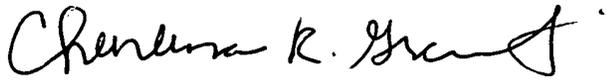
Petitioner requests the abandonment of the above-identified application be withdrawn. Petitioner contends the submission of the supplemental appeal brief on March 18, 2005 was timely because it contained a certificate of mailing date of March 16, 2005.

A review of the record shows that the supplemental appeal brief submitted on March 18, 2005, contains a certificate of mailing pursuant to 37 CFR 1.8. Thus, the brief is considered as timely filed.

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

This application is being forwarded to Art Unit 3663 for further processing.

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a distinct loop at the end.

Charlema R. Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

WOODCOCK WASHBURN
ONE LIBERTY PLACE
46TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED

MAR 11 2002

In re Application of :
Phillip Dan Cook et al :
Application No. 09/996,263 :
Filed: November 28, 2001 :
Attorney Docket No. ISIS-4943 :

NOTICE **OFFICE OF PETITIONS**

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 1635.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/20/07

TO SPE OF : ART UNIT 1648

SUBJECT : Request for Certificate of Correction on Patent No.: 6818216

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

BRUCE R. CAMPBELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Bruce Campbell
SPE

1648
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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GARVEY SMITH NEHRBASS & NORTH LLC
3838 N CAUSEWAY BLVD
LAKEWAY 3 SUITE 3290
METAIRIE LA 70002

COPY MAILED

MAY 03 2006

OFFICE OF PETITIONS

In re Application of
James J. Shelton
Application No. 09/996,328
Filed: November 28, 2001
Attorney Docket No. P01252US

:
: DECISION GRANTING PETITION
: AND WITHDRAWING THE
: HOLDING OF ABANDONMENT
:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 29, 2006.

The petition under 37 CFR 1.181 is GRANTED.

The holding of abandonment is WITHDRAWN.

The above-identified application became abandoned for failure to timely file a response to the Notice of Allowance mailed September 8, 2005. This Office action set a statutory period for reply of three (3) months for issue fee transmittal. On September 15, 2005, the Office issued a notice entitled "Office Actions and Notice of Allowances Previously Mailed to areas of Alabama, Louisiana, and Mississippi Affected by Hurricane Katrina". The notice stated that the period for reply set in the previous Notice of Allowance was restarted to begin on September 15, 2005. Accordingly, Applicant timely paid the issue fee on December 15, 2005. However, the Office mailed a Notice of Abandonment on March 15, 2006.

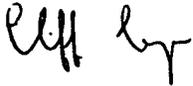
It is obvious in view of the above that the Notice of Abandonment was mailed in error.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,328	11/28/2001	James J. Shelton	P01252US	3584

22920 7590 10/19/2006

GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE, LA 70002

EXAMINER

CARTAGENA, MELVIN A

ART UNIT PAPER NUMBER

3754

DATE MAILED: 10/19/2006

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

In re Application of SHELTON :
Serial No. 09/996,328 :
Filed November 28, 2001 :
For: **METHOD AND APPARATUS FOR** : **DECISION ON PETITION**
DISINFECTING A REFRIGERATED : **UNDER 37 CFR 1.48(a)**
WATER COOLER RESEVOIR :

This is a decision on the papers filed February 17, 2004, June 28, 2004 and June 9, 2005 which have been treated as petitions to correct the inventorship under 37 CFR 1.48.

The petitions are dismissed.

A request to correct the inventorship under 37 CFR 1.48(a) requires: (1) A request to correct the inventorship that sets forth the desired inventorship change; (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47; (4) The processing fee set forth in § 1.17(i); and (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

The papers filed February 17, 2004 requesting to add Kenneth A. Davis as a second inventor lacks items (2)-(5). The papers filed June 28, 2004 requesting to delete James J. Shelton as an inventor is premature because Kenneth A. Davis has not been properly added as an inventor. Further, none of the papers filed June 28, 2004 correct the deficiencies of the request of February 17, 2004. The papers filed June 9, 2005 attempt to overcome the previous deficiencies in adding Kenneth A. Davis as a second inventor and deleting James J. Shelton as an inventor. Items (2), (4) and (5) are lacking.


Kevin P. Shaver
Supervisory Patent Examiner
Art Unit 3754
Patent Examining Group 3700

GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002



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JAN 04 2008

OFFICE OF PETITIONS

DOUGLAS A CHAIKAN, ESQ.
PENISULA IP GROUP A PROFESSIONAL LAW CORPORATION
26150 BUCKS RUN
CORRAL DE TIERRA CA 93908

In re Application of :
Waschura, et al. :
Application No. 09/996,342 : DECISION
Filed: 21 November, 2001 :
Attorney Docket No. WASC1821 :

This is a decision on the petition filed on 11 August, 2006, resubmitted on 5 September, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

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

NOTES:

Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.²

² For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Loudon, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance mailed on 20 March, 2006, with reply due under a non-extendable deadline on or before 20 June, 2006;
- the application went abandoned after midnight 20 June, 2006;
- Petitioner filed an after-final amendment under 37 C.F.R. §1.312 on 27 March, 2006, which amendment appears not to have been entered by the Examiner;
- The record reflects an Examiner interview summary mailed on 29 March, 2006, reflecting a telephone conversation between Petitioner and the Examiner on 27 March, 2006;
- the Office mailed the Notice of Abandonment on 3 August, 2006;
- on 11 August, 2006, Petitioner filed the instant petition with, *inter alia*, an averment of that the Examiner's amendment accompanying the Notice of Allowance/Allowability on 20 March, 2006, was not agreed to by the Petitioner, and Petitioner wished to have reinstated his Appeal filed on 23 January, 2006 (Notice of Appeal actually filed in the form of an Appeal Brief) with fee authorized and charged), with the Appeal Brief resubmitted on 6 March, 2006 (with fee authorized but apparently not charged at that time because it appears that the credit card authorization form may not have been submitted at that time), and so it appears that the appeal may not have been perfected for the lack of the fee due on filing of the brief on 6 March, 2006;
- thereafter, inquiry by the Office of Petitions to the Examiner as to entry or not of the 27 March, 2006, after-final amendment resulted in the following excerpt from the Examiner's reply (through the Supervisory Patent Examiner of the art unit) (a copy of the reply is enclosed):

A response to the 312 amendment would be that the amendment can not be entered under 312.

Here is the text of the response.

The March 27, 2006, 37 CFR 1.312 amendment has been considered but is disapproved for the following reason. The amendment presents changes to the claims which would necessitate withdrawing the application from issue and as such may not be entered. An amendment under 312 is not to be used for the purpose of continuing prosecution. As this amendment restores the claims to a finally rejectable form, its entry is not proper use of an amendment filed under 312.

Examiner Lau's recollection of the events discussed in early March 2006 with respect to what transpired to result in an examiner's amendment and allowance of the instant application and the filing of a continuation differ from those of applicant.

The pertinent portions of 37 CFR 1.312 are reproduced here.

No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue.

Thus, the Examiner, through his Supervisory Patent Examiner, indicates that non-entry of the 27 March, 2006, after-final amendment under 37 C.F.R. §1.312 results, in part, because the 27 March, 2006, after-final amendment under 37 C.F.R. §1.312 was not a proper reply to the Notice of Allowance/Allowability of 20 March, 2006.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

Application No. 09/996,342

representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

STATUTES, REGULATIONS AND ANALYSIS

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

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁴

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.

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

See specifically, the regulations at 37 C.F.R. §10.18.

³ 35 U.S.C. §133 provides:

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

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

⁴ 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.

Application No. 09/996,342

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷)

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁸ (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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

Petitioner appears not to have satisfied the showing burdens herein.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

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

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

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

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

⁷ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁸ See: Delgar v. Schulver, 172 USPQ 513 (D.D.C. 1971).

Application No. 09/996,342

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

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



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

⁹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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

Response to Rule 312 Communication	Application No.	Applicant(s)	
	09/996,342	WASCHURA ET AL.	
	Examiner	Art Unit	
	Tung Lau	2863	

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

1. The amendment filed on 27 March 2006 under 37 CFR 1.312 has been considered, and has been:

- a) entered.
- b) entered as directed to matters of form not affecting the scope of the invention.
- c) disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.
- d) disapproved. See explanation below.
- e) entered in part. See explanation below.

The March 27, 2006, 37 CFR 1.312 amendment has been considered but is disapproved for the following reason.

The amendment presents changes to the claims which would necessitate withdrawing the application from issue and as such may not be entered. An amendment under 312 is not to be used for the purpose of continuing prosecution. As this amendment restores the claims to a finally rejectable form, its entry is not proper use of an amendment filed under 312.

Examiner Lau's recollection of the events discussed in early March 2006 with respect to what transpired to result in an examiner's amendment and allowance of the instant application and the filing of a continuation differ from those of applicant.

The pertinent portions of 37 CFR 1.312 are reproduced here.

No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue.

/John E. Barlow Jr./
John E Barlow Jr
SPE TC 2800



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

CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO, CA 92691

COPY MAILED

JUN 06 2008

In re Application of :
Jai K. Baek :
Application No. 09/996,398 :
Filed: November 28, 2001 :
Attorney Docket No. 212/340 :
: **DECISION ON PETITION**
: **TO WITHDRAW**
: **FROM RECORD**
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed May 11, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Crockett & Crockett, P.C. has been revoked by the assignee of the patent application on September 29, 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: SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626



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BAKER & DANIELS LLP
Suite 800
111 East Wayne Street
Fort Wayne IN 46802

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JUN 27 2007

In re Application of :
Tommy Lewis :
Application No. 09/996,405 :
Filed: 11-20-2001 :
Attorney Docket No. HER0101 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 30, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 1, 2005. The Office mailed a Notice of Abandonment on March 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper 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. 11/710,641.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

TIMOTHY P. O'HAGAN
P.O. BOX 1054
PORTSMOUTH, NH 03802

COPY MAILED

SEP 09 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
Vincent Bahl et al :
Application No. 09/996,440 :
Filed: November 29, 2001 :
Attorney Docket No. BT-003 :

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

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

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

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

This file is being forwarded to Technology Center 2100.

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



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Paper No. 10

GARY L. LOSER
VARIAN SEMICONDUCTOR EQUIPMENT ASSOCIATES, INC.
35 DORY ROAD
GLOUCESTER MA 01930

COPY MAILED

JUL 10 2003

OFFICE OF PETITIONS

In re Application of :
Daniel F. Downey and Edwin A. Arevalo :
Application No. 09/996,446 :
Filed: November 28, 2001 :
Attorney Docket No. VRO-004.01 :
Title: ATHERMAL ANNEALING WITH :
RAPID THERMAL ANNEALING SYSTEM :
AND METHOD :

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

This is a decision on the petition filed on May 20, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication¹;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign or an international application on November 26, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

On December 19, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompanied by a notice of the foreign or international filing.

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

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

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

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

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

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

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



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

cc: Kevin Oliver
Patent Group
Foley Hoag LLP
155 Seaport Boulevard
World Trade Center West
Boston, MA 02210-2600



MATTHEW CONNORS
GAUTHIER & CONNORS
225 FRANKLIN STREET
SUITE 3300
BOSTON MA 02110

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MAR 02 2005

OFFICE OF PETITIONS

In re Application of
Desmond R. Lim et al.
Application No. 09/996,462
Filed: November 28, 2001
Attorney Docket No. MIT9066

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed December 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on February 5, 2004, for failure to submit within three months, a proper and timely response to the final Office action mailed on December 4, 2003. By Advisory Action dated March 8, 2004, petitioners were informed that the reply to the Office Action, filed February 4, 2004, did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed June 15, 2004.

¹Effective 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

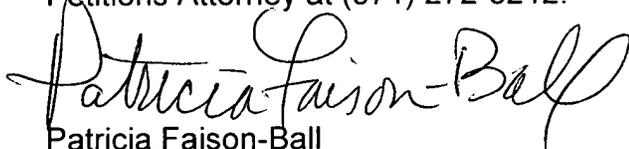
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

Additionally, petitioner has requested a three month extension of time, filed also with the petition to revive. Pursuant to 37 CFR 1.136 however, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$510.00 extension of time fee submitted with the petition on December 8, 2004, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 19-0079. Petitioner is also advised that effective December 8, 2004, the fee for a petition to revive was increased to \$750.00 and thus, upon receipt of the petition, \$85.00 was debited from deposit account 19-0079.

This matter is being referred to Technology Center 2874 for processing of the RCE and submission.

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

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

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SEP 27 2007

OFFICE OF PETITIONS

In re Patent No. 7,080,160
Issue Date: July 18, 2006
Application No. 09/996,490
Filed: November 28, 2001
Attorney Docket No. IMEDIA-40145

DECISION ON PETITION

This is a decision on the request filed March 9, 2006, which is being treated as a petition under 37 CFR 1.182, to change the order of the named inventors in the above-identified patent. The delay in responding is regretted.

The petition is **DISMISSED**.

The issue fee in this application was paid on March 9, 2006. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee¹, and eliminated 37 CFR 1.312(b). Since a change to the order of the inventors' names is an amendment to the application, and amendments are not permitted after the payment of the issue fee, a petition under 37 CFR 1.182² to change the order of the inventors' names cannot be granted.

Further, since the above patent issued, there is no basis for the USPTO to change the order of the named inventors. *See Fina Technology v. Ewen*, 60 USPQ2D 1314 (Fed. Cir. 2001) (the order of the named inventors is not a clerical error contemplated by § 255; it likewise cannot be corrected in a judicial proceeding under that provision).

The patented file is being referred to Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

¹ No petition to withdraw from issue under 37 CFR 1.313(c)(2), no request for continued examination (RCE) with the submission requirement in 37 CFR 1.114 (the petition under 37 CFR 1.182 may act as the required submission), and no Application Data Sheet with desired order of inventorship (MPEP § 605.04(f)) were timely submitted and granted by the appropriate officials before the date of issue (37 CFR 1.313(d)).

² A petition under 37 CFR 1.182 requires a \$400 petition fee.



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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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Natsuko Yotsumoto	: DECISION ON REQUEST FOR
Patent Number	: 7603686	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/996,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1349** 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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ALAN W FINK
8131 MIRANDA LN
SANDY UT 84093

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Alan Walter Fink :
Application No. 09/996,530 : ON PETITION
Filed: November 28, 2001 :
Attorney Docket No. Alan.P001 :

This is a decision on the Petition for Revival of an Application Abandoned Unavoidably Under 37 CFR 1.137(a), filed November 20, 2006 (Certificate of Mailing dated November 17, 2006).

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed August 25, 2005. This Office action 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. No reply having been received, the above-identified application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on October 6, 2006.

Consideration of petition under 1.137(a) (Unavoidable Delay)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the

satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."¹

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.²

Petitioner states that he was not able to file a timely proper reply because he did not have the funds to hire a patent attorney. Moreover, petitioner did not understand patent practice, and thought he "would have to argue new claims for each rejected claim".

Petitioner has not demonstrated that the entire period of delay was unavoidable. First, a showing of "unavoidable" delay based upon financial hardship must be supported by documentation (e.g. copies of bankruptcy papers, income tax returns, W-2s, copies of bills, etc.). Petitioner has supplied no such documentation. However, even if petitioner were able to demonstrate financial hardship, hiring the services of a patent attorney is not necessary to filing a proper response to a final Office action. An applicant who can not afford the services of a patent attorney or agent is expected to familiarize himself with the applicable patent statutes and rules.

¹ In re Mattulath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

² See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

If petitioner can not establish that the entire period of delay was unavoidable, petitioner may revive the above-identified application under the provisions of 37 CFR 1.137(b), unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) (currently \$750 for a small entity); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

A copy of the form for a petition to revive due to unintentional delay is enclosed for petitioner's convenience.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$510 extension of time fee submitted with the petition on November 20, 2006 was subsequent to the maximum period obtainable for reply (February 25, 2006), this fee will be refunded to petitioner under separate cover.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor:

Application No.:

Art Unit:

Filed:

Examiner:

Title:

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity – fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- has been filed previously on _____.
- is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

- has been paid previously on _____.
- is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____	_____
Signature	Date
_____	_____
Typed or printed name	Registration Number, if applicable
_____	_____
Address	Telephone Number
_____	_____
Address	

- Enclosures: Fee Payment
- Reply
- Terminal Disclaimer Form
- Additional sheets containing statements establishing unintentional delay
- Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____	_____
Date	Signature

	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/996,591	11/30/2001	Tamotsu Kondow	216583USOXCONT

 22850
 OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
 FOURTH FLOOR
 1755 JEFFERSON DAVIS HIGHWAY
 ARLINGTON, VA 22202

CONFIRMATION NO. 3947

FORMALITIES LETTER



OC000000007246066

Date Mailed: 12/31/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION
FILED UNDER 37 CFR 1.53(b)
Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is 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 \$ 130.**
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

RECEIVED
 JAN 07 2002

■ For Rules Interpretation, call (703) 308-4216

04/02/2002 BNGUYEN1 00000041 09996591

01 FC:105

130.00 OP

 OBLON, SPIVAK, MCCLELLAND,
 MAIER & NEUSTADT, P.C.

- 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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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**ATTACHMENT TO "NOTICE TO COMPLY WITH
REQUIREMENTS...SEQUENCE DISCLOSURES"**

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 submitted using one of the following methods:

1. Electronically submitted through EFS-Bio
(<http://www.uspto.gov/ebs/efs/downloads/documents.htm>, EFS Submission User Manual - ePAVE)
2. Mailed to:
U.S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202
3. Mailed by Federal Express, United Parcel Service or other delivery service to:
U. S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Box Sequence
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202
4. Hand Carried directly to the Customer Window at:
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03, Box Sequence,
Arlington, Virginia 22202

Docket No. 216583US0XCONT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Tamotsu KONDOW, et al.

SERIAL NUMBER: 09/996,591

ATTN: APPLICATION BRANCH **HOIPE**

FILING DATE: November 30, 2001

FOR: METHODS FOR DETERMINING NUCLEOTIDE SEQUENCES OF SINGLE NUCLEIC ACID MOLECULES



FILING OF DECLARATION UNDER 37 CFR 1.53(f)

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the notification dated December 31, 2001, and in accordance with the provisions of 37 CFR 1.53(f), Applicants submit herewith a Rule 63 Declaration.

The required fee was paid at the time of filing the application.

In light of the foregoing, this application is deemed to be in proper condition for examination and such favorable action is earnestly solicited.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 10/98)



Norman F. Oblon
Attorney of Record
Registration No. 24,618

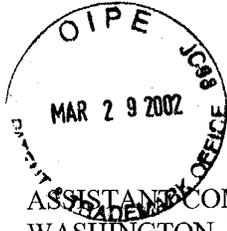
James J. Kelly, Ph.D.
Registration No. 41,504

MP #
DoX5eg

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTENTION: APPLICATIONS BRANCH

**THIS IS A RESPONSE TO A
NOTICE TO FILE MISSING
PARTS OF APPLICATION**



ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

ATTORNEYS AT LAW

NORMAN F. OBLON
(703) 413-3000
NOBLON@OBLON.COM

JAMES J. KELLY
(703) 413-3000
JKELLY@OBLON.COM

Re: Serial No.: 09/996,591
Applicant(s): Tamotsu KONDOW, et al.
Filing Date: November 30, 2001
For: METHODS FOR DETERMINING NUCLEOTIDE
SEQUENCES OF SINGLE NUCLEIC ACID

MOLECULES

SIR:

Attached hereto for filing are the following papers:

Filing of Declaration Under 37 CFR §1.53(f); Declaration, Power of Attorney and Petition (4 pages executed); Return Copy - Notice to File Missing Parts of Application; Preliminary Amendment w/Marked-Up Copy, Substitute Abstract and Sequence Listing Paper (10 pp.); Sequence Listing Computer Readable Form (CRF) Diskette; Request for Extension of Time (one month); Responsive to Notice to File Missing Parts of Nonprovisional Application - Fees Due and enclosed \$130.00

Our check in the amount of \$240.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the U.S. Patent and Trademark Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. §1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. §1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Registration No. 24,618

James J. Kelly, Ph.D.
Registration No. 41,504

Docket No. 216583US0XCONT



22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 11/98)



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

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AUG 30 2004

OFFICE OF PETITIONS

In re Application of :
Tamotsu Kondow et al :
Application No. 09/996,591 : DECISION GRANTING PETITION
Filed: November 30, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 216583USOXCONT :

This is a decision on the petition, filed August 26, 2004, under 37 CFR 1.313(b)(5), which is being treated as a petition under 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 6, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 1634 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
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 : 5/15/09

TO SPE OF : ART UNIT 1634 Lu, Frank

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/496591 Patent No.: 7223568

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. CofC for 8-9-2007

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**

H. Rief

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: _____

J.D. Schmitt

SPE

1634

Art Unit



MAILED

MAR 10 2003

Technology Center 2100

Paper No. 11

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

In re Application of: Moshe Rubin, et al.)
Application No. 09/996,623)
Filed: November 28, 2001)
For: METHOD AND SYSTEM FOR COPY)
PROTECTION OF DISPLAYED)
DATA CONTENT)

**DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed February 19, 2003.

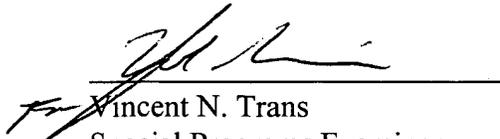
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that 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 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.

Serial No. 09/996,623
Decision on Petition

- Page 2 -



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

cc: Marc Sockol
Squire, Sanders & Dempsey L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043



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BEYER WEAVER & THOMAS LLP
PO BOX 70250
OAKLAND CA 94612-0250

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JAN 30 2006

OFFICE OF PETITIONS

In re Application of
Fukuda, et al. :
Application No. 09/996,624 : DECISION ON
Filed: November 28, 2001 : PETITION
Attorney Docket No. ISHDP165D1 :

This is in response to petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 27, 2005.

The petition under 37 CFR 1.181 is GRANTED.

The holding of abandonment is WITHDRAWN.

The above-identified application was held abandoned for failure to file a proper reply to the final Office action mailed January 4, 2005. Applicants filed an Amendment on January 13, 2005. However, by Advisory Action mailed February 7, 2005, the Office notified applicants that the amendment would not be entered. Applicants filed another amendment on February 23, 2005. A Notice of Abandonment was mailed on May 26, 2005, informing applicants that the amendment of January 13, 2005 was received, but was not a proper reply.

The undersigned has confirmed with the examiner that the amendment filed February 23, 2005 was a proper reply.

In view of the above, it is obvious that the Notice of Abandonment was mailed in error. Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required.

The application file is being forwarded to Group Art Unit 3721 for consideration of the amendment filed February 23, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
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MOSER PATTERSON & SHERIDAN
3040 POST OAK BLVD., SUITE 1500
HOUSTON, TX 77056-6582

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JUL 08 2004

OFFICE OF PETITIONS

In re Application of Gysling et al.
Application No. 09/996,626
Filed: November 28, 2001
Attorney Docket No. 753-001.002
ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 30, 2004, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed July 29, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 30, 2003. A Notice of Abandonment was mailed May 4, 2004.

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

- (1) the required reply,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition, under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.

1 In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

2 See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks items (1). The Amendment submitted to the Examiner on April 30, 2004 failed to place the above-identified application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. The Advisory Action issued by the Examiner is enclosed.

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

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

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 existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

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

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

Enclosure: Advisory Action



MOSER PATTERSON & SHERIDIAN
3040 POST OAK BLVD, SUITE 1500
HOUSTON, TX 77056-6582

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AUG 24 2004

OFFICE OF PETITIONS

In re Application of	:	
Gysling et al.	:	
Application No. 09/996,626	:	ON PETITION
Filed: November 28, 2001	:	
Attorney Docket No. WEAT/0509	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 29, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 30, 2003. A Notice of Abandonment was mailed on May 4, 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 2800 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 should be directed to the undersigned at (571) 272-3206.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P. O. Box 1450
ALEXANDRIA, VA 22313-1450
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Marta Fraley
804 Cooley Road
Parksville, NY 12768

In re Application of
Carl J. PACIFICO et al.
Application No. 09/996,636
Filed: November 29, 2001
For: SENSITIVE SUBSTANCE ENCAPSULATION

COPY MAILED

MAY 13 2003

OFFICE OF PETITIONS

Dear Ms. Fraley:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel 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 B. Dayoan at (703) 305-9282. 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 (800) 972-6382 (outside the Washington, D.C. area).

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

cc: Susan A. Sipos
HOFFMAN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791



Paper No. 8

Susan A. Sipos
HOFFMAN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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MAY 13 2003

OFFICE OF PETITIONS

In re Application of
Carl J. PACIFICO et al.
Application No. 09/996,636
Filed: November 29, 2001
Attorney Docket No. 1001-13 RES

:
:
:
:
:

DECISION
ON PETITION
37 CFR 1.47(a)

This is a decision on the petition filed April 8, 2002, under 37 CFR 1.47(a).

The petition is GRANTED.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the instant petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is being returned to Technology Center 1700 for examination on the merits.

Telephone inquiries regarding this communication may be directed to B. Dayoan at (703) 305-9282 or, in her absence, to Senior Petitions Examiner Brian Hearn at (703) 305-1820.

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



6711

HOFFMAN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Carl J. Pacifico et al.
Application No. 09/996,636
Filed: November 29, 2001
Attorney Docket No. 1001-13 RES

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) November 24, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Wen-Hsin Wu and Marta Fraley, have refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, the statement of Susan A. Sispos, Attorney of Record, establishes that the non-signing inventors were each sent a copy of the present reissue application, by certified mail, but the United States Postal Service (USPS) returned the items marked "UNCLAIMED". Thus, by their actions, the non-signing inventors have refused to execute the declarations naming them as joint inventors with Carl J. Pacifico.

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

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

The application is being forwarded to Technology Center 1711 for examination on the merits.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Wen-Hsin Wu
17 Anna Court
Middletown, NY 10941

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Carl J. Pacifico et al.
Application No. 09/996,636
Filed: November 29, 2001
For: SENSITIVE SUBSTANCE ENCAPSULATION

Dear Ms. Wu:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
HOFFMAN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Marta Fraley
804 Cooley Road
Parksville, NY 12768

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FEB 05 2004

OFFICE OF PETITIONS

In re Application of
Carl J. Pacifico et al.
Application No. 09/996,636
Filed: November 29, 2001
For: SENSITIVE SUBSTANCE ENCAPSULATION

Dear Ms. Fraley:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
HOFFMAN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791



NORTEL NETWORKS LIMITED
P. O. BOX 3511, STATION C
OTTAWA ON K1Y 4H7 CA CANADA

COPY MAILED

DEC 05 2002

OFFICE OF PETITIONS

Applicant: Horne
Appl. No.: 09/996,671
Filing Date: November 30, 2001
Title: MANAGEMENT OF LOG ARCHIVAL AND REPORTING FOR DATA NETWORK SECURITY SYSTEMS
Attorney Docket No.: 13608ROUS02U
Pub. No.: US 2002/0138762 A1
Pub. Date: September 26, 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 27, 2002 for the above-identified application.

The request is **DISMISSED**.

The instant request is that the application be republished including missing text from page 22, line 5 to page 41, line 30 of the original application as filed.

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 27, 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 should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2100 to await further examination in due course.

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

July 7, 2003

Christopher D. Wati
Xerox Corporation
Xerox Square 20A
Rochester, NY 14644

In re application of:

Alain E. Perregaux et al DECISION ON PETITION

Serial No.: 09996,681

Filed: November 30, 2001

For: USE OF A U-GROOVE AS AN ALTERNATIVE et al

This is a decision on the petition received on December 23, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed February 21, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 23, 2002.

On December 23, 2002, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed February 21, 2002.

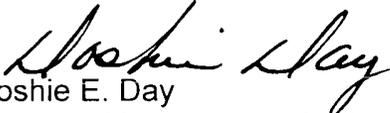
The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed February 21, 2002.

The petition is hereby Granted.

The application will be completed with the documents received December 23, 2002 and released to Technology Center 1765.

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

Paper No.

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

COPY MAILED
SEP 29 2008

In re Application of :
Andrew M. Spencer et al. :
Application No. 09/996,720 :
Filed: November 30, 2001 : DECISION ON PETITION
Attorney Docket No. 10014185-1 : PURSUANT TO
Title: METHOD TO STORE AND : 37 C.F.R. § 1.137(B)
RETRIEVE MEMORY CARD USAGE :
INFORMATION :

This is a decision on the petition filed July 14, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 28, 2007, which set a shortened statutory period for reply of three months.¹ No extensions of time are permitted for transmitting corrected drawings.² Accordingly, the above-identified application became abandoned on February 29, 2008. A Notice of Abandonment was mailed on March 25, 2008, subsequent to the filing of this petition.

¹ It is noted that both the issue and publication fees were timely received on December 12, 2007.

² See MPEP § 710.02(e).

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

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included the petition fee, corrected drawings, and the proper statement of unintentional delay.

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.

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) 272-3225.³ All other inquiries

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any 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

09/996 735

DAC



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent of

Shinya FUJIMOTO, et al.

Patent No.: 6,615,154

Issued: September 2, 2003

Docket No: Q67448

Allowed: April 23, 2003

Group Art Unit: 2863

Examiner: Xiuqin Sun

RECEIVED

SEP 09 2005

OFFICE OF PETITIONS

PATENT PUBLISHING DIVISION

OCT 14 2005

RECEIVED

For: **ABNORMALITY DETECTION APPARATUS OF ENGINE TEMPERATURE ADJUSTING THERMOSTAT**

PETITION TO PUBLISH ISSUED PATENT

MAIL STOP PETITION

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

RECEIVED

SEP 30 2005

OFFICE OF PETITIONS

Sir:

Pursuant to 37 C.F.R. § 1.182, Applicants submit this Petition in order to request publication of issued patent 6,615,154. As will be noted from a review of the file, the application upon which the subject patent is based was allowed on April 23, 2003 and issued on September 2, 2003. However, on December 17, 2003, a Notice of Abandonment was erroneously generated by the PTO to Applicants (see "Decision on Petition to Withdraw Holding of Abandonment" dated June 6, 2005, which acknowledges the PTO's error).

Applicants have noted that the subject patent does not appear in the PTO's patent database. Any search conducted on the subject patent number using the PTO's database yields a notice that the patent has been withdrawn. Applicants have discussed this matter with personnel in the PTO's Publications Office, who have indicated that they have interpreted the erroneous abandonment notice of December 17, 2003 as an indication that the subject patent was to be withdrawn. Accordingly, Applicants have been unable to obtain the requested relief from the Publications Office.

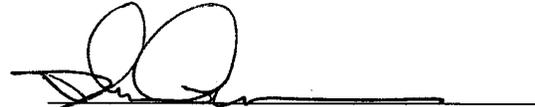
PETITION TO PUBLISH ISSUED PATENT
USAN 09/996,735
US Patent No. 6,615,154

Q67448

Inasmuch as the subject application was never in abandoned status and was entitled to be issued and published in normal course, a decision directing the Publications Office to remove the "withdrawn" status of the patent and publish the patent in the PTO's database and elsewhere is respectfully requested.

Please charge any fee associated with this Petition to Deposit Account No. 19-4880. A refund of any such fee is requested in view of the fact that this Petition was necessitated solely due to PTO error.

Respectfully submitted,



Richard C. Turner
Registration No. 29,710

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

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: September 7, 2005



Paper No. 3

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

JUL 16 2003

In re Application of :
PINTO, OSCAR P. :
Application No. 09/996,766 :
Filed: November 30, 2001 :
For: MECHANISM FOR IMPLEMENTING :
CLASS REDIRECTION IN A CLUSTER :

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on April 29, 2003.

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the Request are granted the request for withdrawal. All attorneys associated with Customer Number 20,457 are also 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: ANNE RICHARDS
SCHWEGMAN, LUNDBERG, WOESSNER, & KLUTH PA
1600 TCF TOWER
121 S. 8TH STREET
MINNEAPOLIS, MN 55402



Paper No. 8

MAIL

JUL 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Supervisor, Patent Prosecution Services
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

In re Application of :
Carl D. Ceresoli, et al. :
Application No. 09/996,770 :
Filed: 11/30/2001 :
Attorney Docket No. 9546-002-24 :
For: SYSTEM AND METHOD FOR OBTAINING :
COMPREHENSIVE VEHICLE RADIO :
LISTENER STATISTICS :

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 15, 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 fails to provide a future correspondence address. A copy of the correspondence address was faxed in on July 10, 2002 after the Petitioner was informed of the missing information. The request is now complete and meets all the above-listed requirements. The request is GRANTED.

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

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

cc: Carl D. Ceresoli
Chief Executive Officer
IQSTAT, Inc.
6560 Darlington Court
Cumming, GA 30040-6519



UNITED STATES PATENT AND TRADEMARK OFFICE

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

RAJ S. DAVE
MORRISON & ROERSTER LLP
2000 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006-1888

COPY MAILED

FEB 07 2006

OFFICE OF PETITIONS

In re Patent No. 6,856,461 :
Issued: February 15, 2005 :
Application No. 09/996,823 :
Filed: November 30, 2001 :
Attorney Docket No. 495812000100 :

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C.
Intellectual Property Department
P.O. Box 10064
MCLEAN, VA 22102-8064

Mail Date: 05/14/2010

Applicant : Michael B. Sundel : DECISION ON REQUEST FOR
Patent Number : 7620583 : RECALCULATION of PATENT
Issue Date : 11/17/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/996,825 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/30/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **704** 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)
6,731,729	2004-05-04	09/996,837	2001-11-29	5106-7CIP/M

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Alfred W. Froebrich/	Date (YYYY-MM-DD)	2008-06-20
Name	Alfred W. Froebrich	Registration Number	38887

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. 6731729 :
Issue Date: May 4, 2004 :
Application No. 09996837 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 29, 2001 :
Attorney Docket No. 5106-7CIP :

This is a decision on the electronic petition, filed June 20, 2008, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 20, 2008. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



LEE G. MEYER
MEYER & ASSOCIATES, LLC
17462 E. POWERS DRIVE
CENTENNIAL, CO 80015-3046

COPY MAILED

NOV 16 2005

OFFICE OF PETITIONS

In re Application of :
Michael K. Davis et al :
Application No. 09/996,849 :
Filed: November 27, 2001 :
Attorney Docket No. 50031.0020 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 15, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 16, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1080 extension of time submitted on March 11, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 2654 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

Fernandez & Associates LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

In re Application of:
Edward T. PAK, et al.
Application No. 09/996,865
Filed: November 27, 2001
For: DYNAMIC CIRCUIT USING EXCLUSIVE
STATES

MAILED

OCT 01 2004

Technology Center 2100

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 12, 2004.

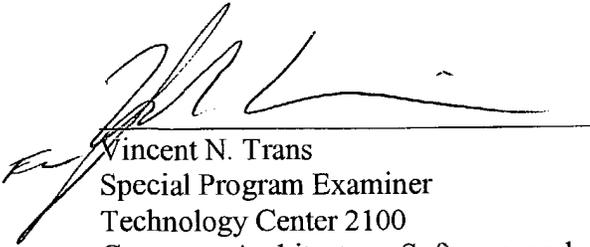
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that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

There is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED.**

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

Serial No.: 09/996,865
Decision on Petition

- 2 -

A handwritten signature in black ink, appearing to read "Vincent N. Trans", is written over a horizontal line. The signature is stylized and cursive.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Dennis S. Fernandez & Associates LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

In re Application of:
Edward T. Pak, et al.
Application No. 09/996,865
Filed: November 27, 2001
For: DYNAMIC CIRCUIT USING EXCLUSIVE
STATES

MAIL

APR 13 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

**DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT**

This is a decision on the Request To Withdraw from Representation filed October 18, 2004.

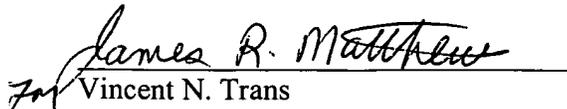
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that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

The request filed October 18, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

Serial No.: 09/996,865
Decision on Petition

- 2 -


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

cc: David Ashby
IP STRATEGY GROUP
10121 Miller Ave., Suite 201
Cupertino, CA 95014



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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AUG - 2 2004

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AUG 2 2004

OFFICE OF THE DIRECTOR
TC 3600

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

In re application of : **DECISION ON PETITION**
Martin Welt : **TO MAKE SPECIAL**
Application No. 09/996,879 : **(APPLICANT'S AGE)**
Filed: November 30 2001 :
For: INTERNET-BASED SYSTEM AND METHOD FOR FACILITATING COMMERCIAL
TRANSACTIONS BETWEEN BUYERS AND VENDORS

This is a decision on the petition submitted on June 3, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a statement submitted by Melton Welt indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-0866

SNM/dcg: 7/26/04

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 17, 2006

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/996883 Patent No.: 6,908,694 B2

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

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

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

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

_____ SPE _____

_____ 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

Date

: *March 3, 2010*

Patent No. : 7003024
Inventor(s) : E.Kubo et al.
Issued : February 21, 2006
Title : SEMICONDUCTOR DEVICE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above; accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.



Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Mattingly & Malur, P.C.
1800 Diagonal Road, Suite 370
Alexandria, VA 22314

/arg



Craig Holmes
Hickman, Palermo, Truong & Becker, LLP
2055 Gateway Place, Suite 550
San Jose, CA 95110-1089

MAILED

JAN 10 2008

TECHNOLOGY CENTER 2100

In re Application of:
Chinna Pellacuru
Application No. 09/996,948
Filed: November 27, 2001
For: Facilitating Secure Communications Among
Multicast Nodes in a Telecommunications
Network

**DECISION ON PETITION
UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed on December 20, 2007 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on April 25, 2006.

The petition is **GRANTED**.

BACKGROUND

The April 25, 2006 IDS was filed under 37 CFR 1.97(c) and does meet the requirements of both rules 1.97 and 1.98 so consideration by the examiner is warranted. The examiner has considered the documents and a signed, initialed and dated 1449 has been scanned into IFW as of October 29, 2007. Unfortunately a copy of this 1449 was not mailed to applicant. A copy of this 1449 is attached to this communications to remedy this situation.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
WorkGroup QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

Attachment:1449

INFORMATION DISCLOSURE CITATION IN AN APPLICATION (PTO-1449)	ATTY. DOCKET NO. 50325-0607	SERIAL NO. 09/996,948
	APPLICANT: Chinna Narasimha Reddy Pellacuru	
	FILING DATE: November 27, 2001	GROUP: 2136



U.S. PATENT DOCUMENTS

Exam. Initial*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code ² (If known)			
FA		5,491,750		Bellare et al.	02-13-1996	
		5,666,415		Kaufman	09-09-1997	
		6,782,475	B1	Sumner	08-2004	
		6,901,510	B1	Srivastava	05-31-2005	
		6,917,685	B1	Watanabe et al.	07-12-2005	
		6,987,855	B1	Srivastava	01-17-2006	
FA		2003/0044017	A1	Briscoe	03-2003	

FOREIGN PATENT DOCUMENTS

Exam. Initial*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Office ³	Number ⁴	Kind Code ⁵ (If known)				

OTHER ART - NO PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	Translation ²

Examiner Signature 	Date Considered 10/25/2007
-------------------------------	--------------------------------------

*EXAMINER: Initial if reference 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.

¹Unique citation designation number. ²See attached Kinds of U.S. Patent Documents. ³Enter Office that issued the document, by the two-letter code (WIPO Standard S.3). ⁴For Japanese patent documents, the indication of the year of reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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Alexandria, VA 22313-1450
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INCYTE CORPORATION
LEGAL DEPARTMENT
3160 PORTER DRIVE
PALO ALTO CALIFORNIA 94304

In re Application of :
Walker et al :
Serial No.: 09/996,952 : Decision on Petition
Filing Date: 27 November 2001 :
Attorney Docket No. PB-0016 US :

This letter is in response to the Petition under 37 CFR 1.181, filed on 23 January 2004, to vacate the final restriction requirement and to require the examiner to search and examine SEQ ID Nos. 1-9. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that the Office mailed a 9-way restriction requirement. Applicants elected Group I, claims 1, 2, 3, 9, 10, 11, drawn to a combination comprising a nucleic acid having SEQ ID No. 7, vectors and host cells comprising said nucleic acid, with traverse. Applicants are not traversing the restriction between Group I and Groups II-IX. Instead applicants argue that the restriction requirement for a single sequence within Group I was improper in view of MPEP 803.04.

The Restriction Requirement pertaining to the sequences is set forth below:

For each of inventions I-IX above, restriction to one of the following is also required under 35 USC 121. Therefore, election is required of one of inventions I-VI and one of inventions (A)-(P, sic C).

- (A). SEQ ID NO: 4
- (B). SEQ ID NO: 6
- (C). SEQ ID NO: 7.

It is noted that claim 1, which has been grouped with Group 1, is drawn to a combination comprising a plurality of cDNAs having the nucleic acid sequence of SEQ ID NO: 1-9 and the complements of SEQ ID NO: 1-9. Thus this claim requires that the combination must comprise each of SEQ ID NO: 1-9 as well as the complements of SEQ ID NO: 1-9. This claim is supported by the specification on page Should applicants amend this claim such that it is drawn to a combination comprising a plurality of cDNAs selected from the group consisting of SEQ ID NO: 1-9 and the complements of SEQ ID NO: 1-9, a further restriction will be made between SEQ ID NO: 1-9 and the complements of SEQ ID NO: 1-9.

Applicants elected Group I, SEQ ID NO 7 and traversed the grounds similar to those presented in this petition. Upon consideration of the traversal, the Examiner stated that:

Applicants further submit that the Examiner's requirement for applicants to elect a single sequence for examination relative to the claims of Group 1 is improper and applicants submit that the MPEP 803.04 supports applicants position. Applicants specifically submit that since claim 1 contains less than ten sequences, all sequences of the combination should be examined. Applicants argument is not found persuasive.

Applicants are reminded that with respect to claim 1 which requires the combination of SEQ ID NOs: 1-9, all of the sequences will be considered/examined. However with respect to the remaining claims, 2, 3, 9, 10 and 11, of Group 1, only SEQ ID NO: 7 the elected Group, will be examined based on the undue burden caused by the search and examination of those sequences claimed in addition to SEQ ID NO: 7, (i.e. SEQ ID NOs: 4 and 6). Applicants are reminded that a complete and proper search of the elected subject matter involves the search of not only the referred to nucleic acid sequences using a number of different multiple databases, but of also the encoded amino sequences using a number of different multiple databases. Further these searches take a considerable amount of time that is dependent on the type and length of the sequences and the various embodiments reasonably considered to be encompassed by "said sequences".

The requirement is still deemed proper and is therefore made FINAL.

Claims 4-8 and 12-20 were withdrawn from further consideration by the examiner, 37 CFR 1.142(b). Claims 2, 3 and 9-11 were rejected under 35 U.S.C. 1 12, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-3 and 9-11 were rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well-established utility. Claims 1-3 and 9-11 were rejected under 35 U.S.C. 1 12, first paragraph, as failing to comply with the enablement requirement.

An amendment and response and this Petition were filed on 12 December 2003.

DISCUSSION

The application, file history and petition have been considered carefully.

Claim 1 reproduced below.

1. A combination comprising a plurality of cDNAs having the nucleic acid sequences of SEQ ID NOs:1-9 and the complements of the nucleic acid sequences of SEQ ID NOs:1-9.

The phrase "a combination comprising a plurality of" is being interpreted as meaning that Claim 1 requires more than one copy of each of SEQ ID Nos. 1, 2, 3, 4, 5, 6, 7, 8, and 9. Applicants are correct that Claim 1 is written in the format of MPEP 803.04, Example B, below.

(B) a combination of DNA fragments comprising SEQ ID Nos. 1-1,000;

If combination claims such as Claim 1, written in the format of Example (B), been the only type filed in this application, they would have been examined as follows:

Applications claiming only a combination of nucleotide sequences, such as set forth in example (B), will generally not be subject to a restriction requirement. The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one nucleotide sequence is found to be allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

The petition argues that the restriction between sequences is not proper in view of section 803.04 of the MPEP. However, MPEP 803.04 states:

In applications containing all three claims set forth in examples (A)-(C), the Office will require restriction of the application to ten sequences for initial examination purposes. Based upon the finding of allowable sequences, claims limited to the allowable sequences as in example (A), all combinations, such as in examples (B) and (C), containing the allowable sequences and any patentably indistinct sequences will be rejoined and allowed. (Emphasis added).

For further support of the restriction requirement, this application does not contain (1) only combination claims as set forth in Example (B), nor does it contain all three claim sets (A), (B) and (C). This application contains additional types of claims that do not conform to the formats of Examples (A), (B) or (C). See Claim 2 reproduced below:

2. A cDNA comprising a nucleic acid sequence selected from SEQ ID NOs:4, 6, and 7 and the complements thereof.

Claim 2 is an independent claim written in the format of 3 independent and distinct molecules recited in the alternative. An examination of this claim requires a separate search of each of SEQ ID NO 4, 6 and 7. The search for multiple independent and distinct nucleic acid molecules requires undue burden. Moreover, it is unlikely that applicants would accept prior art found on one sequence being applied to another sequence. However, there is overlap between Claim 1 and Claim 2, as the examiner appropriately recognized. Claim 2 has been properly joined to and examined with claim 1 to the extent that it reads upon the elected sequence. This restriction is proper in view of MPEP 803.04, which states that

By statute, “[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions.” 35 U.S.C. 121. Pursuant to this statute, the rules provide that “[i]f two or more independent and distinct inventions are claimed in a single application, the examiner in his action shall require the applicant . . . to elect that invention to which his claim shall be restricted.” 37 CFR 1.142(a). See also 37 CFR 1.141(a). Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq.

In order to have each of SEQ ID Nos. 1-9 examined together, Applicants may petition pursuant to 37 CFR 1.181 for examination of additional nucleotide sequences by providing evidence that the different nucleotide sequences do not cover independent and distinct inventions. However, if such a petition were filed and granted, any prior art the examiner applies to one sequence may be applied under 35 USC 103(a) as being obvious in view of applicants’ admission.

Alternatively, if Applicants were to limit their invention to the combination of claim 1, the restriction requirement would be withdrawn and Claim 1 would be examined as required by MPEP 803.04, Example (B).

DECISION

The petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the Examiner for consideration of the response filed 12 December 2003.

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450 or by telephone at (571) 272-1600.



Bruce Kisliuk
TC1600 Group Director



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

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

COPY MAILED

In re Application of :
Harlan W. Waksal :
Application No. 09/996,954 : NOTICE
Filed: November 30, 2001 :
Attorney Docket No. 11245/46605 :

MAR 1 1 2002

OFFICE OF PETITIONS

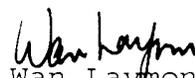
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small 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

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

LAWRENCE ROSENTHAL
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

COPY MAILED

AUG 10 2007

OFFICE OF PETITIONS

In re Application of :
Toshihisa Saruta :
Application No. 09/996,986 : DECISION GRANTING PETITION
Filed: November 30, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 405507/0006 :

This is a decision on the petition, filed August 9, 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 June 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2861 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\aug10\996986.wpd

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



Paper No. 5

PATENT ADMINSTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

COPY MAILED

AUG 1 4 2002

OFFICE OF PETITIONS

**DECISION GRANTING
PETITION**

In re Application of
Neter et al.
Application No. 09/996,991
Filed: November 30, 2001
Attorney Docket No. 13201.00137

This is a decision on the petition filed February 25, 2002, to establish that pages 8 and 9 of the specification were part of the originally filed application.

The petition under 37 CFR 1.53 is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.53." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

On November 30, 2001, the application was filed.

On December 28, 2001, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 30, 2001, and advising applicants that pages 8 and 9 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that pages 8 and 9 were deposited on November 30, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification (including claims & abstract) (71 pp)" on November 30, 2001.¹ Petitioner has also submitted a copy of the missing documentation- pages 8 and 9 of the specification.

Upon review of the record, pages 8 and 9, deposited on November 30, 2001, have not been located. The evidence is convincing that the application papers deposited on November 30, 2001, included pages 8 and 9, and that the pages were subsequently misplaced in the PTO.

However, the copy of pages 8 and 9 submitted with the petition cannot be used for examination purposes. The petition states, "enclosed for the Examiner's convenience are copies of page 8 and

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

Application No. 09/996,991

9." The copies of pages 8 and 9 are partially illegible. For example, on page 8, words such as "preform", "and", "heat", "those", "molding", "the", "cooling" and others have portions of letters omitted. Page 9 also is partially illegible. OIPE cannot scan the entire specification if portions are illegible. Copies of page 8 and 9 as submitted are attached. It should be noted that the other pages of the specification are clearly legible.

Petitioner should submit a legible copy of pages 8 and 9.

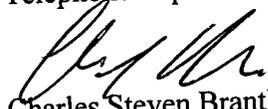
Further correspondence with respect to this matter should be addressed as follows:

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 Petitions Attorney Steven Brantley at (703) 306-5683.


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

Attached: Copies of Page 8 and 9



Paper No. 8

PATENT ADMINSTRATOR
KATTEN MUCHIN ZAVIS ROSENMAN
525 WEST MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Neter et al.	:	
Application No. 09/996,991	:	DECISION GRANTING
Filed: November 30, 2001	:	PETITION
Attorney Docket No. 213201.00137	:	

This is a decision on the renewed petition filed August 27, 2002, to establish that pages 8 and 9 of the specification were part of the originally filed application.

The petition under 37 CFR 1.53 is **granted**.

On November 30, 2001, the application was filed.

On December 28, 2001, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of November 30, 2001, and advising applicants that pages 8 and 9 of the specification appeared to have been omitted.

In response, a petition was filed alleging that pages 8 and 9 were deposited on November 30, 2001. In support, petitioner submitted a postcard receipt which acknowledges receipt of "Specification (including claims & abstract) (71 pp)" on November 30, 2001.¹ Petitioner also submitted a copy of the missing documentation- pages 8 and 9 of the specification.

Upon a review of the record, pages 8 and 9, deposited on November 30, 2001, were not located. However, the evidence was convincing that the application papers deposited on November 30, 2001, included pages 8 and 9, and that the pages were subsequently misplaced in the PTO.

The petition was dismissed because the copies of pages 8 and 9 submitted on February 25, 2002, were partially illegible.

Petitioner has submitted a legible copy of pages 8 and 9.

No petition fee is required and none has been charged.

The Notice mailed December 28, 2001, was sent in error and is hereby vacated.

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 30, 2001, using the application papers filed on November 30, 2001, and the copy of pages 8 and 9 of the specification filed on August 27, 2002.

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



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed MAY 12 2003

UR
Paper NO. 12

In re Application of
Faisal Queslati et al.
Serial Number: 09/996,991
Filed: November 30, 2001
For: POST-MOLD COOLING APPARATUS

:
:
:
:
:

DECISION ON
PETITION UNDER
M.P.E.P. 708.02,II

This is in response to the petition filed, November 30, 2001, requesting that the above-identified application be granted Special Status under Section 708.02, II of the M.P.E.P. and 37 CFR 1.102(d) (fee authorized).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is GRANTED.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Patent Administrator
Katten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, IL 60661-3693



SCHLUMBERGER RESERVOIR COMPLETIONS
14910 AIRLINE ROAD
ROSHARON TX 77583

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AUG 02 2006

OFFICE OF PETITIONS

In re Application of :
Farrant et al. :
Application No. 09/997,021 :
Patent: 6938689 :
Issued: September 6, 2005 :
Filed: November 28, 2001 :
Attorney Docket No.22.1458 :
Title: Communicating with a Tool :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on January 27, 2006, to correct the six named inventor's name and accept the correction of the inventor's name on the front page of the above-identified patent.

The petition is **DISMISSED AS MOOT**.

A review of the record shows that a certificate of correction covering the above correction was issued on February 6, 2006.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



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

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OFFICE OF PETITIONS

. In re Application of	:	
Steven O. Markel	:	
Application No. 09/997,022	:	DECISION ON PETITION
Filed: November 27, 2001	:	TO WITHDRAW
Attorney Docket No. INTE.26USU1 (ITC42)	:	FROM RECORD

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

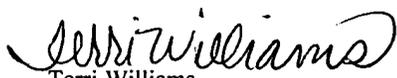
The request is **NOT APPROVED**.

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

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

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

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


Terri Williams
Petitions Examiner
Office of Petitions

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



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AUG 01 2007

OFFICE OF PETITIONS

OPTV/MOFO
c/o Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22102

In re Application of :
Steven O. Markel :
Application No. 09/997,022 :
Filed: November 21, 2001 :
Attorney Docket No. INTE.26USU1 (ITC42) :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

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

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Steven O. Markel**
3031 E. Wycliff Way
Highlands Ranch, CO 80126

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


UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/997,022	11/27/2001	Steven O. Markel	INTE.26USU1 (ITC42)

43997
 OPTV/MOFO
 C/O MORRISON & FOERSTER LLP
 1650 TYSONS BOULEVARD, SUITE 300
 MCLEAN, VA 22102

CONFIRMATION NO. 6138


OC000000025126265

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

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

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



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Alexandria, Virginia 22313-1450
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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

Mail Date: 05/24/2010

Applicant : Steven O. Markel : DECISION ON REQUEST FOR
Patent Number : 7661117 : RECALCULATION of PATENT
Issue Date : 02/09/2010 : TERM ADJUSTMENT IN VIEW
Application No : 09/997,022 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/27/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1493** 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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P.O. Box 1450
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TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

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MAR 07 2005

OFFICE OF PETITIONS

In re Application of :
Grieswald, Jens :
Application No. 09/997,034 :
Filed: November 28, 2001 :
Attorney Docket No. 7123 US :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 13, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 14, 2004.

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

This matter is being referred to Technology Center 2600 for further examination on the merits.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

Gregg C. Benson
Pfizer Inc.
Patent Department, MS 4159
Eastern Point Road
Groton, CT 06340

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JAN 15 2003

OFFICE OF PETITIONS

In re Application of :
Banavara L. Mylari :
Application No. 09/997,039 :
Filed: November 29, 2001 :
Attorney Docket No. PC11830ARTB. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 9, 2002. The Notice set a shortened statutory reply period of three 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 application became abandoned on August 10, 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 1614 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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NASHUA NH 03061-3445

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APR 27 2004

In re Application of :
Frederick D. Fullerton :
Application No. 09/997,074 :
Patent No. 6,712,022 :
Filed: November 29, 2001 :
Issue Date: March 30, 2004 :
Attorney Docket No. FFD01-US :
Title: LOBSTER PACKING BOX SYSTEM :

OFFICE OF PETITIONS

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

This is a decision on the petition filed December 22, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication¹;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign application on July 30, 2003. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

Prior to September 17, 2003, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, notification of the filing of the international application did not accompany this filing.

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

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

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

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

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

After this decision is mailed, the application will be forwarded to Files Repository.

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



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

COPY



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231



June 12, 2002

Campbell & Flores LLP
4370 La Jolla Village Drive
7th Floor
San Diego, CA. 92122

Page #09
TECH CENTER 1 800 293 0000
OCT 18 2002
RECEIVED

In re Application of:
William D. Huse
Application No.: 09/724762
Filed: November 28, 2000
Attorney Docket: P-IX 3907

DECISION ON PETITION

This is a decision on your petition received in the Patent and Trademark Office on November 28, 2001, and treated as a petition under 37 CFR 1.53(b)(2)(ii) to convert the above identified application to a Provisional application under 35 U.S.C. 111 (b) and 37 CFR 1.53(b)(2).

The petition is granted.

The application will be processed in the Office of Initial Patent Examination (OIPE) as a Provisional application under 35 U.S.C. 111(b) and 37 CFR 1.53(b)(2), including the assignment of a new Provisional application number.

The Provisional application serial number is 60/367370. The filing receipt for the Provisional application number will be communicated to applicant by OIPE in due course.

John Dill, Lead Legal Instruments Examiner
Office of Initial Patent Examination
(703) 308-0910

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JUN 17 2002
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EXHIBIT B



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DW 03-04

ELIE H. GENDLOFF, PH.D., ESQ.
AMSTER, ROTHSTEIN & EBENSTEIN
90 PARK AVENUE
NEW YORK NY 10016

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SEP 02 2004

OFFICE OF PETITIONS

In re Application of :
van Damme et al. :
Application No. 09/997,213 : DECISION
Filed: 27 November, 2001 : UNDER 37 CFR 1.28(c)
Attorney's Docket No. 65959/7 :

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 26 July, 2004.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

The 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**.

Small entity status will no longer apply.

The file is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



Date : February 3, 2007

Patent No. : 6,855,539 B2

Inventor(s) : van Damme, et al.

Issued : February 15, 2005

Title : **DEVICE FOR PERFORMING AN ASSAY, A METHOD FOR MANUFACTURING SAID
DEVICE, AND USE OF A MEMBRANE IN THE MANUFACTURE OF SAID DEVICE**

Docket No. : 65959/7

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

CBN/eme



UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JAN 28 2003

48

HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

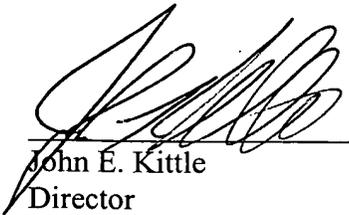
In re Application of :
Lee W. Johnston : DECISION ON PETITION
Serial No.: 09/997,233 :
Filed: November 30, 2001 :
For: Improved Convection of Absorbent :
Cores Providing Enhanced Thermal :
Transmittance :

This is in response to the petition applicant filed on January 7, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Box Design, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.



John E. Kittle
Director
Technology Center 3700/2900



Paper No. 4

NIXON PEABODY, LLP
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN VA 22102

COPY MAILED
AUG 23 2002
OFFICE OF PETITIONS

In re Application of
Bodo Weigand : DECISION GRANTING PETITION
Application No. 09/997,248 : TO RESET PERIOD FOR REPLY
Filed: 30 November, 2001 :
Attorney Docket No. 740116-353 :

This is a decision on the petition filed on 17 June, 2002, requesting that the period for reply set forth in the Office communication mailed on 17 December, 2001, be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on 14 June, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between 13 October, 2001, and 2 January, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly the period for reply that was originally set forth in the Office communication original mailed on 17 December, 2001, is hereby reset to run from the receipt date of 14 June, 2002.

The petition fee of \$130.00 will be refunded to counsel's deposit account, No. 19-2380.

Application No. 09/997,248

2

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

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



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



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of:

Zhao *et al.*

Patent. No.: 6,882,042 B2

Issued: April 19, 2005

For: **Thermally And Electrically
Enhanced Ball Grid Array
Packaging**

Confirmation No.: 2600

Art Unit: 2829

Examiner: Zameke, David A.

Atty. Docket: 1875.2200001

**Request for Certificate of Correction
Under 37 C.F.R. § 1.322 and 1.323**

Attn: Certificate of Correction Branch

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

Sir:

It is hereby requested that a Certificate of Correction under 37 C.F.R. §§ 1.322 and 1.323 be issued for the above-captioned United States Patent. This Certificate of Correction is being requested due to mistakes which appear in the printed patent. These mistakes were made by both the U.S. Patent and Trademark Office and by Applicants. The mistakes made by Applicants are of a clerical or typographical nature, or of a minor character. Patentees submit that correction of these errors does not introduce new matter.

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

On the front page, in the Inventors Section (75), please delete "Reaz-ur Rahman Khan" and insert - - Reza-ur Rahman Khan; - - This correction is requested to correct a typographical error made by Applicants.

*ok to
submit
AFB
7/27/06*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/20/05

Paper No.: _____

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction on Patent No.: 6882042

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

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

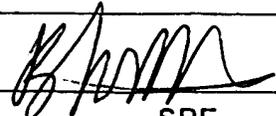
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

B. WILLIAM BAUMEISTER
SUPERVISORY TALENT EXAMINER



SPE

2891

Art Unit



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Ruth A. Chenault et al.
Application No. : 09/997,279
Filed : November 28, 2001
For : COMPOSITIONS AND METHODS FOR THE THERAPY AND
DIAGNOSIS OF OVARIAN AND ENDOMETRIAL CANCER

Art Unit : 1631
Docket No. : 210121.501C1
Date : May 23, 2002

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

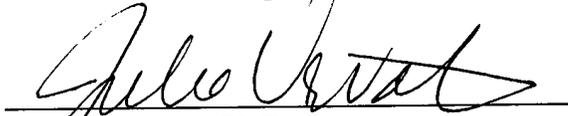
RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Commissioner for Patents:

In response to the Notice to File Missing Parts dated March 25, 2002, please find enclosed the following documents:

- X Fee
- X Oath/Declaration
- X Copy of Notice to File Missing Parts

Respectfully submitted,
Ruth A. Chenault et al.
Seed Intellectual Property Law Group PLLC



Julie A. Urvater, Ph.D.
Registration No. 50,461

1631



Please type a plus sign (+) inside this box → + Approved for use through 10/31/2002. OMB 0651-0031 U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(To be used for all correspondence after initial filing)

5

Application Number	09/997,279
Filing Date	November 28, 2001
First Named Inventor	Ruth A. Chenault
Group Art Unit	1631
Examiner Name	
Attorney Docket No.	210121.501C1

TECH CENTER 1600/2900

MAY 24 2002

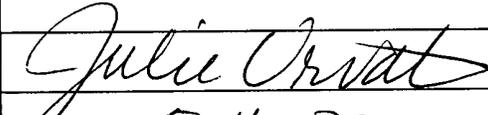
RECEIVED

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> CD(s), Number of CD(s) _____
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Amendment/Response	<input type="checkbox"/> Request for Corrected Filing Receipt	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> After Final	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input checked="" type="checkbox"/> Return Receipt Postcard
<input checked="" type="checkbox"/> Supplemental Information Disclosure Statement; Form PTO-1449	<input type="checkbox"/> Declaration	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below):
<input checked="" type="checkbox"/> Cited References (9)	<input type="checkbox"/> Statement under 37 CFR 3.73(b)	<u>Copy of Invitation to Pay</u>
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Terminal Disclaimer	<u>Additional Fees for PCT/US01/09062</u>
<input type="checkbox"/> Response to Missing Parts under 37 C.F.R. 1.52 or 1.53	<input type="checkbox"/> Small Entity Statement	_____
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Request for Refund	_____

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Individual Name	Julie A. Urvater, Ph.D. 50,461	 00500 PATENT TRADEMARK OFFICE
Signature		
Date	5-16-02	

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, Washington, D.C. 20231 on the date specified below.

Typed or printed name	Monica Steinborn	
Signature		Date: 5/17/02



EXPRESS MAIL NO. EV064844092US

PTO/SB/17 (11-00) Approved for use through 10/31/2002. OMB 0651-0032

FEE TRANSMITTAL
for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT	(\$)	954.00
--------------------------------	------	---------------

Complete if Known

Application Number	09/997,279
Filing Date	November 28, 2001
First Named Inventor	Ruth A. Chenault
Examiner Name	
Group Art Unit	1631
Attorney Docket No.	210121.501C1

METHOD OF PAYMENT

Payment Enclosed:

Check Credit card Money Order Other

Deposit Account:

Deposit Account Number: **19-1090**

Deposit Account Name: **Seed Intellectual Property Law Group PLLC**

The Commissioner is authorized to (check all that apply)

Charge fee(s) indicated below Credit any overpayments

Charge any additional fee(s) during the pendency of this application

Charge fee(s) indicated below, except for the filing fee

Charge any deficiencies

to the above-identified deposit account.

Applicant claims small entity status. See 37 CFR 1.27.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
105	130	205	65	Surcharge - late filing fee or oath	130
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) _____					
*Reduced by Basic Filing Fee Paid					SUBTOTAL (3) (\$) 130

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
101	740	201	370	Utility filing fee	740
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 740

2. EXTRA CLAIM FEES

Total Claims	<input type="text" value=""/>	** =	<input type="text" value=""/>	* <input type="text" value=""/>	=	<input type="text" value=""/>
Independent Claims	<input type="text" value="4"/>	-3** =	<input type="text" value="1"/>	* <input type="text" value="84"/>	=	<input type="text" value="84"/>
Multiple Dependent	<input type="text" value=""/>	*	<input type="text" value=""/>	=		<input type="text" value=""/>

Large Entity		Small Entity		Fee Description	
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
103	18	203	9	Claims in excess of 20	
102	84	202	42	Independent claims in excess of 3	
104	280	204	140	Multiple dependent claim, if not paid	
109	84	209	42	** Reissue independent claims over original patent	
110	18	210	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)					(\$) 84

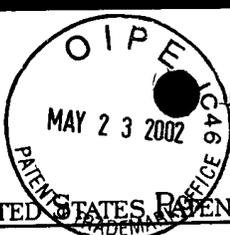
**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY

Name (Print/Type)	Julie A. Urvater, Ph.D.	Registration No. Attorney/Agent	50,461
Firm Name/Address			
Signature		Date	5.23.02

00500

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
09/997,279	11/28/2001	Ruth A. Chenault	210121.501C1

CONFIRMATION NO. 3122

FORMALITIES LETTER



OC000000007709101

00500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

4
RECEIVED

MAR 29 2002

SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC

Date Mailed: 03/25/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 740 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$84.
 - \$84 for 1 independent claims over 3 .
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 954.**

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

05/30/2002 MBERHE 00000049 09997279

01 FC:101
02 FC:105
03 FC:102

740.00 OP
130.00 OP
84.00 OP



March 2, 2004

Chad R. Walsh
Townsend and Townsend
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

In re application of:
James R. Shay et al DECISION ON PETITION
Serial No.: 09/997,311
Filed: November 27, 2001

For: COMPUTER IMPLEMENTED METHOD FOR COANTROLLING DOCUMENT EDITS

This is a decision on the petition received by fax on February 11, 2004, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed December 19, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned February 20, 2002. A notice of abandonment was mailed on January 22, 2004.

On February 11, 2004, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts by fax on March 19, 2002, with two months of extension.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on March 19, 2002. The application went abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on May 9, 2002.

On May 9, 2002, the office sent out a Notice to File Corrected Application Papers to correct the drawing in the above application. Counsel is given two month from the date of this Petition to respond to the notice.

The office regrets an inconvenience this may have caused counsel.

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

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of
Akiyo K. Claiborne, et al.
Application No. 09/997,323
Filed: November 30, 2001
Attorney Docket No. 6754.US.02

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ON PETITION

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

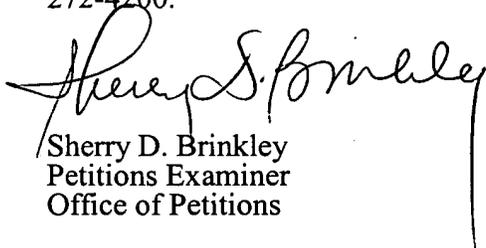
The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 12, 2005. A Notice of Abandonment was mailed on September 21, 2006. In response, on July 25, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

Paper No.

Daphne Reddy
HELLER EHRMAN WHITE & McAULIFFE LLP.
275 Middlefield Road
Menlo Park, California 94025-3506

Date: January 31, 2005
Application No. 09/997,349
Filing Date: November 15, 2001
Subject: PRO1159 Polypeptides

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:
:
ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petitions filed December 1, 2004, under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the claim amendments during prosecution, fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the present application. Accordingly, this application has been changed by deleting the names of the following inventors, who have not made an inventive contribution to the currently claimed subject matter: Avi Ashkenazi, Kevin Baker, David Boston, Dan Eaton, Napoleone Ferrara, Sherman Fong, Hanspeter Gerber, Mary Gerristen, J. Christopher Grimaldi, Ivar Kljavin, Mary Napier, James Pan, Nicholas Paoni, Margaret Ann Roy, Timothy Stewart, Daniel Tumas, P. Mickey Williams, Zemin Zhang. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

David Blanchard
United States Patent and Trademark Office
Patent Examiner
Art Unit 1642
Remsen 3B11
571-272-0827

LARRY R. HELMS, PH.D
PRIMARY EXAMINER



COPY MAILED

JUL 06 2004

OFFICE OF PETITIONS

Paper No.

O'MELVENY & MEYERS
114 PACIFICA, SUITE 100
IRVINE CA 92618

In re Application of :
Michael J. Heller :
Application No. 09/997,374 : ON PETITION
Filed: November 29, 2001 :
Attorney Docket No. 267/242 :

This is a decision on the petition, filed July 1, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed July 1, 2004 and supplemented on July 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed July 6, 2004.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on June 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

As to the petition under 37 CFR 1.78(a)(3):

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

¹ 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).

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
- (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 November 29, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

² 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).

benefit of the earlier filing date.

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

The examiner of Technology Center Art Unit 1634 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 08/703,601, filed August 23, 1996.

A handwritten signature in cursive script that reads "Karen Creasy".

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



COPY MAILED

NOV 14 2007

OFFICE OF PETITIONS

Zagorin O'Brien Graham LLP
7600B N. Capital Of Texas HWY, Suite 350
Austin, Texas 78731

In re Application of
Zhang
Application No. 09/997,378
Filed: Nov 30, 2001
Atty Docket: 026-024
:
:
: DECISION GRANTING PETITION
:
:

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER TO 37 CFR § 1.705(b)" timely¹ filed on June 28, 2007 requesting that the Office adjust the PTA from zero (0) days to a determination of three hundred and thirty-eight (338) at the time of the mailing of the notice of allowance.

Applicants' application for PTA is **GRANTED**. The Office will make an adjustment to the PTA determination from a determination of zero days to a determination of 338 days.

Applicants request that the Office erred in asserting that the response to the restriction requirement was not received in the Office until November 15, 2004. Applicants assert that the actual response date to the restriction requirement occurred on September 3, 2003. Accordingly, applicants assert that the three hundred and sixty-nine day reduction by the USPTO is in error. Therefore, applicants assert that the total amount of PTA at the time of the mailing of the notice of allowance is 338 days (460 + 194 - 136 - 180 = 338).

Applicants arguments are persuasive to the extent herein determined. A review of the records reveal that Applicant did in fact respond to the restriction requirement within three months. Applicants have copy of the fax transmittal receipt indicating that the response to the election/restriction response was received in the Office on September 3, 2003. Accordingly, the 369-day delay by applicant is in error in that the Office entered November 5, 2004 as the reply date rather than the actual date of September 3, 2003. Accordingly, the Office delayed 194 days under 37 CFR 1.702(a)(1) and 460 days under 37 CFR 1.702(a)(2). Applicant delayed 180 days under 37 CFR 1.704(c)(8) and 136 days under 37 CFR 1.704(b). The correct amount of PTA is 338 days as asserted by applicant.

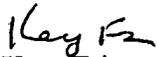
After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the application. Any delays pursuant to 37 CFR 1.702(a)(4) or 1.702(b) or reductions under 37 CFR 1.704(b) or 1.704(c)(10) will be included in the issue notification letter determination that is mailed to applicants approximately three weeks prior to the issue date.

¹Issue fee paid on 6/28/2007.

09/997378

The Office has assessed the \$200.00 fee associated with this application. No additional fees are required by applicant.

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


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

Cc: Copy of adjusted PAIR calculation

Day : Tuesday
Date: 11/13/2007**PALM INTRANET**

Time: 11:39:56

PTA Calculations for Application: 09/997378

Application Filing Date:	11/30/2001	PTO Delay (PTO):	654
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	685
Post-Issue Petitions:	0	Total PTA (days):	338
PTO Delay Adjustment:	369		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
44	11/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	369		
37	04/18/2007	MAIL NOTICE OF ALLOWANCE			
36	04/16/2007	ISSUE REVISION COMPLETED			
35	04/16/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	04/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	04/16/2007	NOTICE OF ALLOWABILITY			
32	02/02/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	02/02/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	28
29	02/10/2007	DATE FORWARDED TO EXAMINER			
28	02/02/2007	RESPONSE AFTER NON-FINAL ACTION			
27	11/03/2006	MAIL NON-FINAL REJECTION	460		21
26	10/30/2006	NON-FINAL REJECTION			
25	08/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	09/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
23	07/19/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	07/19/2006	DATE FORWARDED TO EXAMINER			
21	03/31/2005	RESPONSE TO ELECTION / RESTRICTION FILED		136	13
20	10/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	09/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		180	21
18	08/08/2005	REFERENCE CAPTURE ON IDS			

17	08/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	03/31/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
15	03/22/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
14	01/10/2005	DATE FORWARDED TO EXAMINER			
13.1	11/15/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
13	11/15/2004	RESPONSE TO ELECTION / RESTRICTION FILED		369	8
12	01/11/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
11	01/10/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
10	01/11/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
9	03/22/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
8	08/12/2003	MAIL RESTRICTION REQUIREMENT	194		-1
7	08/11/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
6	04/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	12/20/2001	APPLICATION DISPATCHED FROM OIPE			
4	12/19/2001	APPLICATION IS NOW COMPLETE			
2	12/05/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/30/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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1762

PATENT
Attorney Docket No.: 011453

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit 1762 :
 Examiner Eric B. Fuller :
 In re application of :
 KEVIN KORNPBOST : **DEVICE FOR ASSURING**
 Serial No. 09/997,387 : **PROPER APPLICATION OF**
 Filed November 29, 2001 : **COATINGS**

I hereby certify that the correspondence is being deposited with the United States Patent Service at that office with the following address: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450
Dea MacDonald
March 25, 2004

REQUEST TO WITHDRAW AS COUNSEL UNDER 37 C.F.R. § 2.19(c)

Pittsburgh, Pennsylvania 15219
March 25, 2004

Approved
Jacqueline M. Stone, Director
Technology Center 1700

Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

Dear Sir:

AUG - 2 2004

As Attorney of Record in the above-identified application, I hereby request to withdraw, pursuant to 37 C.F.R. § 2.19(c), the following attorneys: Lynn J. Alstadt, Registration No. 29,362; George P. Baier, Registration No. 26,717; Dennis M. Carleton, Registration No. 40,938; Craig G. Cochenour, Registration No. 33,666; Michael L. Dever, Registration No. 32,216; John E. Grosselin, III, Registration No. 38,478; Bryan H. Opalko, Registration No. 40,751; Michael G. Panian, Registration No. 32,623; and Carla J. Vrsansky, Registration No. 36,958. of Buchanan Ingersoll, P.C., One Oxford Centre, 20th Floor, 301 Grant Street, Pittsburgh, Pennsylvania 15219-1410.

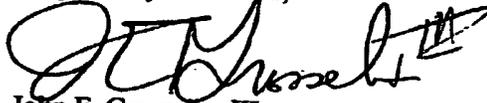
Please direct all further correspondence directly to the Applicant at:

Mr. Kevin Kornprobst
324 Old Gardner Drive
Somerset, Pennsylvania 15501

I am signing this Request on behalf of all the attorneys listed on the previous page.

This request is enclosed in triplicate.

Respectfully submitted,



John E. Grosselin, III
Registration No. 38,478
BUCHANAN INGERSOLL, P.C.
One Oxford Centre
301 Grant Street
Pittsburgh, Pennsylvania 15219

Attorneys for Applicant



Paper No. 4

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APR 09 2002

**OFFICE OF PETITIONS
DECISION GRANTING
PETITION**

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

In re Application of:
Bell, *et al.*
Application No. 09/997,392
Filed: November 28, 2001
Attorney Docket No. 115/453

This is a decision on the February 15, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 28, 2001, rather than the presently accorded filing date of November 29, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 28, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL562416320US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 28, 2001.

In view of the above, *this petition is granted.*

This application will be returned to Initial Patent Examination Division for correction of the filing date to November 28, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

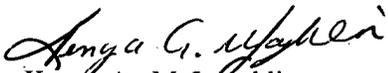
In re Application of :
Delany, et al. :
Application No. 09/997,409 : ON PETITION
Filed: November 30, 2001 :
Attorney Docket No. 021756-013400US :

This is a decision on the petition filed November 6, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct, by way of a Certificate of Correction, the name of the assignee on the front page of the patent that will issue from the above-cited application².

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

¹ See *Official Gazette* of June 22, 2004.

² The instant petition was filed after payment of the issue fee. Accordingly, the correction to the assignee's name could only be effected by way of Certificate of Correction after the application matures into a patent.



**HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506**

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JUN 04 2004

OFFICE OF PETITIONS

In re Application of :
Jaime E. Ramirez-Vick et al : DECISION ON PETITION
Application No. 09/997,475 : UNDER 37 CFR 1.78(a)(3)
Filed: November 19, 2001 :
Attorney Docket No. 25527-0003 C1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 22, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

Petitioner failed to submit an amendment to the first sentence of the specification following the title to include a proper reference to the prior-filed applications or an Application Data Sheet.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

Further, the instant petition reference Application No. 09/977,475 rather than 09/997,475.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment¹ stating the relationship of the prior-filed applications to the instant application is required.

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

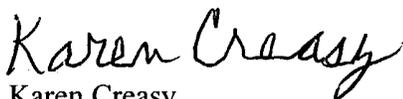
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 2011 South Clark Place
 Crystal Plaza Two Lobby
 Room 1B03
 Arlington, VA 22202

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

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.



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

¹ Note 37 CFR 1.121



HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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JUL 1 4 2004

OFFICE OF PETITIONS

In re Application of :
Jaime E. Ramirez-Vick et al : DECISION ON PETITIONS
Application No. 09/997,475 : UNDER 37 CFR 1.78(a)(3) AND
Filed: November 19, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 25527-0003 C1 :

This is a decision on the renewed petition filed June 18, 2004 which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed June 18, 2004 does not clearly state the relationship of Application No. 10/029,113 to the instant application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and correction of the above matter is required.

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

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

By FAX: (703) 872-9306
 Attn: Office of Petitions

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

Any questions concerning this matter may be directed to the undersigned at (703) 8859.

A handwritten signature in black ink that reads "Karen Creasy". The signature is written in a cursive style with a large initial 'K' and a long, sweeping tail on the 'y'.

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



**HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506**

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NOV 30 2004

OFFICE OF PETITIONS

In re Application of	:
Jaime E. Ramirez-Vick et al	: DECISION ON PETITION
Application No. 09/997,475	: UNDER 37 CFR 1.78(a)(3)
Filed: November 19, 2001	:
Attorney Docket No. 25527-0003 C1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 23, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1)

The amendment submitted with the instant petition is still not clear.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

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



Karen Creasy

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy

JAF



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H.E.W.M. LLP

HELLER EHRMAN WHITE & MCAULIFFE
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

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OFFICE OF PETITIONS

In re Application of
Jaime E. Ramirez-Vick et al.
Application No. 09/997,475
Filed: November 19, 2001
Attorney Docket No. 25527-0003 C1

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed June 18, 2004 which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

REVIEWED

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed pending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., (August 2001), Section 201.11, Reference to First Application. The amendment filed June 18, 2004 does not clearly state the relationship of Application No. 10/029,113 to the instant application.

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) and correction of the above matter is required.

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

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

By FAX: (703) 872-9306
 Attn: Office of Petitions

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

Any questions concerning this matter may be directed to the undersigned at (703) 8859.

Karen Creasy

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601 S.W. Second Avenue
Portland, OR 97204-3157

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MAR 03 2004

OFFICE OF PETITIONS

In re Application of
Leonard Hayden et al.
Application No. 09/997,501
Filed: November 19, 2001
Attorney Docket No. KLR 1016.073

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 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 in reply to the non-final Office action mailed February 19, 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 May 20, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$475 extension of time submitted with the petition on February 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 should be directed to the undersigned at (703) 308-6911.

The application is being forwarded to Technology Center AU 2829 for further processing.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PAUL J WHITE SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY
1617 COLE BLVD
GOLDEN CO 80401-3393

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Himmel, et al. :
Application No. 09/997,504 : DECISION ON PETITION
Filed: November 11, 2001 :
Attorney Docket No. NREL-99-38 :

This is a decision on the petition to revive under 37 CFR
1.137(b), filed April 18, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed August 19, 2004. Applicants filed an amendment on November 22, 2004, made timely by including a Certificate of Mailing dated November 19, 2004. However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on December 10, 2004, informing applicants that the amendment would not be entered. No additional reply with an extension of time having been received, the above-identified application became abandoned on November 20, 2004. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE), including the required submission in the form of an amendment.

The application file is being forwarded to Group Art Unit 1652 for consideration of the RCE, filed April 18, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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FEB 22 2006

OFFICE OF PETITIONS

In re Patent No. 6,882,045 :
Issued: 19 April, 2005 : DECISION DISMISSING PETITION
Application No. 09/997,589 : UNDER 37 CFR 3.81(b)
Filed: 29 November, 2001 :
Atty Docket No. 6136-53804 :
(25916-162) :

This is a decision on the petition, filed on 12 August, 2004, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The request is **DISMISSED**.

Petitioners state that the assignee data was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioners request leave to correct the assignee data.

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

¹ See Official Gazette of June 22, 2004

Patent No. 6,882,045

recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to FUJITSU LIMITED has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that FUJITSU LIMITED was the assignee of record at the time of issuance of the instant application into a patent. Note also 35 U.S.C. § 152.

In view of the above **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth FUJITSU LIMITED as the assignee.** *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision must accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

The address in the petition is different than the address in office records. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence will be mailed solely to the address of record.

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

Patent No. 6,882,045

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: SHEPPARD MULLIN RICHTER & HAMPTON LLP
FOUR EMBARCADERO CENTER, 17TH FLOOR
SAN FRANCISCO CA 94111-4106



COPY MAILED

JUN 23 2008

OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Application of :
Kwasaki, et al. : DECISION ON APPLICATION
Application No. 09/997,655 : FOR PATENT TERM ADJUSTMENT
Filed: November 29, 2001 :
Atty. Dkt. No.: FUJR 19.202 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705," filed March 7, 2008. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

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

The correct determination of PTA at the time of the mailing of the Notice of Allowance is 631 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed January 9, 2008, indicated a patent term adjustment (PTA) to date of 491 days. The instant application for PTA was timely filed March 7, 2008 prior to the payment of the issue fee. Applicants argue that the application is entitled to an overall adjustment of 688 days (827 days for Office delays less 139 days for applicants' delays).

Applicants do not contest the adjustment under 37 CFR 1.702(a) of 827 days.

Applicants do not contest the reduction of 80 days assessed in connection with applicants' response filed September 22, 2006 in response to the non-final Office mailed April 4, 2006.

Applicants do not contest the reduction of 29 days assessed in connection with applicants' response filed December 13, 2007 in response to the final rejection mailed August 14, 2007.

Applicants do contest the reduction of 227 days assessed in connection with the reply filed March 20, 2006 in response to the non-final Office action mailed November 18, 2005.

Applicants assert the correct reduction in this regard is 30 days.

A review of the record reveals that applicants are correct. The non-final Office action was re-mailed November 18, 2005. Thus, the adjustment of 827 days is properly reduced 30 days in accordance with 37 CFR 1.704(b), as argued by applicants. The reduction commenced February 19, 2006, the day after the date that is three months after the date the non-final Office action was mailed, and ended March 20, 2006, the date the response thereto was filed.

The adjustment of 827 days must also be reduced an additional 57 days in connection with the submission of the RCE on March 14, 2007. In accordance with 37 CFR 1.704(b), the reduction commenced January 18, 2007, the day after the date that is three months after the date that the first final rejection was mailed, and ended March 15, 2007, the date that the RCE was filed in response to the final rejection.

In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 631 days (adjustments totaling 827 days less reductions totaling 196 days).

The required PTA application fee of \$200.00 has been charged to applicants' deposit account as authorized.

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 Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Monday
Date : 6/23/2008

Time: 10:52:44

PALM INTRANET**PTA Calculations for Application: 09/997655**

Application Filing Date:	11/29/2001	PTO Delay (PTO):	827
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	336
Post-Issue Petitions:	0	Total PTA (days):	631
PTO Delay Adjustment:	140		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	140		
54	01/09/2008	MAIL NOTICE OF ALLOWANCE			
53	01/08/2008	ISSUE REVISION COMPLETED			
52	01/08/2008	DOCUMENT VERIFICATION			
51	01/08/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/07/2008	NOTICE OF ALLOWABILITY			
49	12/21/2007	DATE FORWARDED TO EXAMINER			
48	12/13/2007	AMENDMENT AFTER FINAL REJECTION		29	43
47	12/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	08/14/2007	MAIL FINAL REJECTION (PTOL - 326)			
42	08/13/2007	FINAL REJECTION			
41	07/27/2007	DATE FORWARDED TO EXAMINER			
40	07/18/2007	RESPONSE AFTER NON-FINAL ACTION			
39	04/19/2007	MAIL NON-FINAL REJECTION			
38	04/13/2007	NON-FINAL REJECTION			
37	03/26/2007	DATE FORWARDED TO EXAMINER			
36	03/14/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
35	03/26/2007	DATE FORWARDED TO EXAMINER			
34	03/14/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
33	03/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
32	03/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	03/14/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			

30	03/15/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	10/17/2006	MAIL FINAL REJECTION (PTOL - 326)			
28	10/14/2006	FINAL REJECTION			
27	10/03/2006	DATE FORWARDED TO EXAMINER			
26	09/22/2006	RESPONSE AFTER NON-FINAL ACTION		80	24
25	09/22/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	04/04/2006	MAIL NON-FINAL REJECTION			
23	04/01/2006	NON-FINAL REJECTION			
22	03/24/2006	DATE FORWARDED TO EXAMINER			
21	03/20/2006	RESPONSE AFTER NON-FINAL ACTION		227	16
20	03/20/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	11/18/2005	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
17	11/17/2005	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
16	05/05/2005	MAIL NON-FINAL REJECTION	827		-1
15	05/03/2005	NON-FINAL REJECTION			
14	04/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	04/08/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	10/01/2004	CASE DOCKETED TO EXAMINER IN GAU			
11	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	11/29/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9.7	11/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	11/29/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/29/2003	MISCELLANEOUS INCOMING LETTER			
7	12/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	09/18/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	01/04/2002	APPLICATION DISPATCHED FROM OIPE			
4	12/28/2001	APPLICATION IS NOW COMPLETE			
3	12/17/2001	CORRESPONDENCE ADDRESS CHANGE			
2	12/07/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/29/2001	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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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

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

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of :
Gerald E. Bennington, et al. :
Application No. 09/997,659 : ON PETITION
Filed: November 29, 2001 :
Attorney Docket No. UV-133 CONT3 :

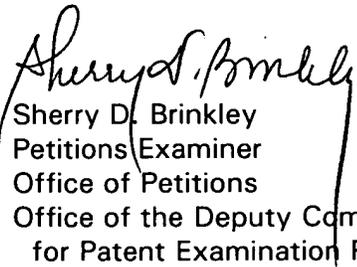
This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed September 16, 2002.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 8, 2002, with a Certificate of Mailing under 37 CFR 1.8 dated August 2, 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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2614 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

¹The 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
P.O. Box 1450
Alexandria, VA 22313-1450
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Thomas V. Miller
Howrey Simon Arnold & White, LLP
PO Box 4433
Houston, TX 77210-4433

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DEC 20 2005

OFFICE OF PETITIONS

In re Application of

Joseph G. Farmerie

Application No. 09/997,678

Filed: November 29, 2001

Attorney Docket No. 10807.0098.NPUS00

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 11, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$1400.00 and publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed August 2, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on November 3, 2004.

The issue fee of \$1400.00 and publication of \$300.00 were received on October 11, 2005.

Form PTOL-85(b), filed October 11, 2005, is noted and made of record.

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

The request for a change of the correspondence address cannot be entered because a person that is neither the inventor, nor the assignee, or a person that has been given power of attorney in the application made the request. Although a courtesy copy of the decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file is being forwarded to the Office of Patent Publications for processing into a patent.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Monte R. Rhodes
3400 JP Morgan Chase Tower
600 Travis Street
Houston, TX 77002-3095



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ALEXANDRIA, VA 22313-1450
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Paper No. 13

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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MAR 26 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nancy P. Brody :
Application No. 09/997,689 :
Filed: December 3, 2001 :
Attorney Docket No. 3768P2398 :

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 final Office action mailed June 11, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. An Advisory action was mailed September 30, 2003 indicating that the reply filed on September 15, 2003 failed to place the application in condition for allowance. Accordingly, the application became abandoned on September 12, 2003.

Since the present RCE was filed without a submission, the unentered amendment filed September 15, 2003 will be considered the submission required under 37 CFR 1.114.

The application file is being forwarded to Technology Center 3700, Art Unit 3727 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Retta Williams

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



MINTZ LEVIN COHN FERRIS GLOVSKY &
POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

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JUL 07 2005
OFFICE OF PETITIONS

In re Application of :
William P. Acker et al :
Application No. 09/997,693 :
Filed: November 30, 2001 :
Attorney Docket No. 21535-001 :

ON PETITION

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

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

The examiner of Technology Center AU 1745 will consider the request for continued examination under 37 CFR 1.114.


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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 13

BOWDITCH & DEWEY LLP
161 WORCESTER ROAD
P O BOX 9320
FRAMINGHAM, MA 01701-9320

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APR 23 2003

OFFICE OF PETITIONS

In re Application of :
Gerald Cowley et al :
Application No. 09/997,694 : DECISION GRANTING PETITION
Filed: November 30, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 301928.3000-100 :

This is a decision on the petition, filed April 15, 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 26, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

the filing of a grantable petition was unintentional.

The instant petition has been found 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 July 31, 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 1744 to await a reply to the nonfinal Office action mailed March 31, 2003. Failure to timely reply to the March 31, 2003 Office action will again result in the abandonment of the 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
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Paper No. 6

BOWDITCH & DEWEY, LLP
161 WORCESTER ROAD
P.O. BOX 9320
FRAMINGHAM, MA 01701-9320

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SEP 08 2004

OFFICE OF PETITIONS

In re Application of :
Cowley, Mason, :
Eltomi and Dechant :
Application No. 09/997,694 :
Filed: November 30, 2001 : ON PETITION
Title of Invention: :
METHODS OF USING CHLORINE :
DIOXIDE AS A FUMIGANT :

This is a decision on the Petition under 37 CFR § 1.182 to permit joint prosecution, filed July 19, 2004.

Background

The oath or declaration for the above-identified application was filed on May 20, 2002, wherein inventors Cowley, Mason, Eltomi and Dechant appointed as counsel Bowditch & Dewey, LLP.

Subsequent to the filing of the oath, two assignments have been recorded with this Office. In the first, inventor Cowley executed an Assignment to Sterling Pulp Chemicals, Ltd. ("Sterling"). Sterling continued with Bowditch & Dewey as correspondent for the application. The assignment was recorded on October 30, 2002. In the second, inventor Eltomi executed an Assignment to Ashland Inc. ("Ashland"). Ashland appointed itself as correspondent. The Assignment to Ashland was recorded on February 19, 2003.

The instant petition

The instant petition is a request to enter as counsel of record for Assignee Sabre Oxidation Technologies, Inc. ("Sabre"), Mark E. Waddell, Esq., and Kathleen Gersh, Esq., at Chadbourne & Park LLP. An Assignment is included with the petition, executed by inventor Mason, assigning his interest in the application to Sabre. An Assignment executed by inventor Dechant is said to be forthcoming. The petition further avers that inventors Mason and Denchant previously executed assignments to Sabre; however, the assignments listed the wrong application serial number. A correct[ed] copy of the Assignment is "being submitted for recordation under separate cover". Petition at p.2.

The petition further provides that Sterling's successor in interest, ERCO Worldwide ("ERCO") it relinquishing its part interest in this application. "A formal assignment of

Sterling's interest in this application is being prepared and will be submitted in due course". Id.

Sabre has filed a statement under 37 CFR 1.73(b), asserting that its interest in this application is 50%, and filed a Revocation of Prior Power of Attorney and Appointment of New Attorneys of Record.

Analysis

Office records indicate that Sabre's interest in this application is 25%. The assignment to Sabre has been executed by inventor Mason only. Office records further indicate that inventor Cowley executed an Assignment on October 3, 2002, assigning his interest in the application to Sterling, and that inventor Eltomi executed an assignment on February 7, 2003, assigning his interest in the application to Ashland. A Power of Attorney has not been filed by Sterling or Ashland. Finally, the Office has no record that inventor Dechant has executed an assignment in this application. In view of the above, Sabre, Ashland, Sterling and inventor Dechant each own a 25% interest in this application.

Accordingly, the petition is **granted in part**. The petition is granted to the extent that Mark E. Waddell, Esq., and Kathleen Gersh, Esq., at Chadbourne & Park LLP have been entered as counsel of record for Assignee Sabre Oxidation Technologies, Inc. ("Sabre"), but dismissed to the extent that Sabre's interest in the application is currently 25%, and not 50%.

In order to ensure that all interests are properly and effectively represented, **all further correspondence to the Patent and Trademark Office (Office) must be signed by Richard B. Hoffman et al., and the Law Firm of Bowditch & Dewey, LLP, as counsel to prosecute this application on behalf of inventors Cowley, Eltomi and Dechant, and likewise signed by Mark E. Waddell or Kathleen Gersh, and the Law Firm of Chadbourne & Parke, LLP as counsel to prosecute this application on behalf of inventor Mason. Each attorney or agent 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 this Office.

The Office will continue to conduct correspondence with the attorneys first named in the application; the Law Firm of Bowditch & Dewey, LLP, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. See, Manual of Patent Examining Procedure ("MPEP") 402.10.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

This application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.



Derek L. Woods

Petitions Attorney
Office of Petitions



Paper No. 8

FACTOR & PARTNERS, LC
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

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AUG 12 2002

In re Application of
Winter, et al.
Application No. 09/997,724
Filed: November 30, 2001
Atty. Dkt. No. POW-011209
Title: LEAK SENSOR FOR FLOWING
ELECTROLYTE BATTERIES

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

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a),
filed March 19, 2002 and supplemented July 25, 2002.

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

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

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

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

APPROVED: /V.H./

06/24/2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT** of:

James A. Proctor, Jr.

Patent No.: 7,496,072

Issued: February 24, 2009

Appln. No.: 09/997,733

Filed: November 29, 2001

Confirmation No.: 4012

For: SYSTEM AND METHOD FOR
CONTROLLING SIGNAL STRENGTH OVER
A REVERSE LINK OF A CDMA WIRELESS
COMMUNICATION SYSTEM

Our File: TAN-2-1403.06.US

Date: June 5, 2009

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

A Certificate of Correction under 35 U.S.C. §§ 254, 255 and 37 C.F.R. §§1.322, 1.323 is requested for U.S. Patent No. 7,496,072. Correction of the following errors is requested.

Patentee: James A. Proctor, Jr.
Patent No.: 7,496,072

ON THE FACE PAGE

At section (56), U.S. PATENT DOCUMENTS, page 2, left column, after line beginning with “5,373,502”, delete “5,375,124 A 12/1994 D’Amrogio et al.” and insert therefor --5,375,124 A 12/1994 D’Ambrogio et al.--.

At section (56), U.S. PATENT DOCUMENTS, page 2, left column, after line beginning with “5,758,288”, delete “5,781,542 A * 7/1998 Ault et al. ... 370/342” and insert therefor --5,781,542 A * 7/1998 Tanaka et al. ... 370/342--.

At section (56), U.S. PATENT DOCUMENTS, page 2, right column, after line beginning with “6,031,827”, delete “6,049,535 A * 4/2000 Ozukturk et al. ... 370/335” and insert therefor --6,049,535 A * 4/2000 Ozlukturk et al. ... 370/335--.

At section (56), U.S. PATENT DOCUMENTS, page 3, left column, delete line beginning with “6,504,830” and insert therefor --6,504,830 B1 1/2003 Östberg et al. ... 370/342--.

At section (56), U.S. PATENT DOCUMENTS, page 3, left column, delete line beginning with “2002/0012332”, and insert therefor --2002/0012332 A1 1/2002 Tiedemann et al.--.

At section (56), OTHER PUBLICATIONS, page 3, right column, delete line 2, and insert therefor --cations Networks, Jun. 18, 1995--.

Patentee: James A. Proctor, Jr.
Patent No.: 7,496,072

At section (56), OTHER PUBLICATIONS, page 3, right column, delete line beginning with “#531-981-20814-95C” and insert therefor

--#531-981-20814-95C , part 2 on 3GPP2 website (ftp://ftp.3gpp2.org/--.

At section (56), OTHER PUBLICATIONS, page 4, at bottom of left column, insert

--Attachment 2, High Speed Data RLP Lucent Technologies, Version 0.1, January 16, 1997.

Azad et al., Multirate Spread Spectrum Direct Sequence CDMA Techniques, 1994, The Institute of Electrical Engineers.

Data Service Options for Wideband Spread Spectrum Systems. TIA/EIA Interim Standard. TIA/EIA/IS-707-A. April 1999.

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Patent No.: 7,496,072

Heine, Gunnar, "The Air-Interface of GSM", in GSM Networks: Protocols, Terminology, and Implementation, (MA: Artech House, Inc.), pp. 89-100 (1999).

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Knisely, Douglas, N. Telecommunications Industry Association Subcommittee TR-45.5 - Wideband Spread Spectrum Digital Technologies Standards. Banff, Alberta. February 24, 1997 (TR45.5/97.02.24)21.

Knisely, Douglas, N. Telecommunications Industry Association Subcommittee TR-45.5 - Wideband Spread Spectrum Digital Technologies Standards, Working Group III-Physical Layer. Banff, Alberta. February 24, 1997 (TR45.5/97.02.24)22.

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MSC-BS Interface (A-Interface) for Public 800 MHz. TIA/EIA/IS-634-A. TIA/EIA Interim Standard (Revision of TIA/EIA/IS-634) July 1998.

MSC-BS Interface for Public 800 MHz. TIA/EIA/IS-634. TIA/EIA Interim Standard, December 1995.

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Ott, David TR45.5, CDMA WBSS Technical Standards Meeting Summary. February 24-28, 1997 Banff, Alberta.

Ovesjö Frederik, European Telecommunication Standard, SMG2 UMTS Physical Layer Expert Group, "UTRA Physical Layer Descriptions FDD parts" (v0.4, 1998-06-25), pp. 1-41, XP-002141421.

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Shacham, et al., "A Selective-Repeat-ARQ Protocol for Parallel Channels and Its Resequencing Analysis," IEEE Transactions On Communications, XP000297814, 40 (4): 773-782 (Apr. 1997).

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Simpson, W. (Editor). "RFC 1662 - PPP in HDLC-Like Framing." Network Working Group, July 1994, pgs. 1-17. <http://www.faqs.org/rfcs/rfc1662.html>.

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Support for 14.4 kbps Data Rate and PCS Interaction for Wideband Spread Spectrum Cellular Systems. TSB74, December 1995. TIA/EIA Telecommunications Systems Bulletin.

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Patent No.: 7,496,072

Group III, Subcommittee TR45.5. February 24-27, 1997. Banff, Alberta.

Telecommunications Industry Association Meeting Summary. Task Group I, Working

Group III, Subcommittee TR45.5. January 6-8, 1997. Newport Beach, California.

Upper Layer (Layer 3) Signaling Standard for cdma2000 Spread Spectrum Systems,

Release C. TIA/EIA Interim Standard. TIA/EIA/IS-2000.5-C. May, 2002.

WWW.CDG.ORG/NEWS/PRESS/1997.ASP. CDA Press Release Archive, 1997.--.

IN THE SPECIFICATION

At column 2, line 21, after the word "Access" delete "(EDNA)" and insert therefor
--(FDMA)--.

At column 3, delete lines 5-13, and insert therefor
--In addition, the existing CDMA system requires certain operations before a channel
can be used. Both access and traffic channels are modulated by so-called long code
pseudonoise (PN) sequences; therefore, in order for the receiver to work properly it
must first be synchronized with the transmitter. The setting up and tearing down of
channels therefore requires overhead to perform such synchronization. This overhead
results in a noticeable delay to the user of the subscriber unit.--.

At column 5, line 57, after the word "standard" delete "ISON" and insert therefor
--ISDN--.

At column 6, line 58, before the word "these" delete "bands" and insert therefor
--band--.

Patentee: James A. Proctor, Jr.
Patent No.: 7,496,072

At column 9, line 47, after “400,” delete “to” and insert therefor --or--.

IN THE CLAIMS

At claim 1, column 10, line 17, before the words “at least” insert --control--.

At claim 6, column 10, line 50, before the words “no data” delete “there is”.

Patentee: James A. Proctor, Jr.
Patent No.: 7,496,072

REMARKS

Patentees believe that the above errors are of such a nature as to justify the issuance of a Certificate of Correction. Patentees have enclosed a completed Certificate of Correction Form PTO/SB/44.

Since at least one of the errors was caused by Applicants, please charge the surcharge fee pursuant to C.F.R. §1.20(a) of \$100.00 to the Deposit Account of InterDigital Communications Corporation, Deposit Account No. 09-0435.

Patentees respectfully request that the Certificate of Correction be issued.

Respectfully submitted,

James A. Proctor, Jr.



By Joseph P. Gushue/

Joseph P. Gushue
Registration No. 59,819
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Philadelphia, PA 19103

JPG/emb

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	APPLICANT James A. Proctor, Jr.	
	FILING DATE November 29, 2001	GROUP 2619



U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/V.H.	4,107,469	08/1978	Jenkins			
↓	4,577,316	03/1986	Schiff			
	4,625,308	11/1986	Kim et al.			
	4,675,863	06/1987	Paneth et al.			
	4,817,089	03/1989	Paneth et al.			
	4,841,526	06/1989	Wilson et al.			
	4,862,453	08/1989	West et al.			
	4,866,709	09/1989	West et al.			
	4,912,705	03/1990	Paneth et al.			
	4,949,395	08/1990	Rydbeck			
	5,022,024	06/1991	Paneth et al.			
	5,027,348	06/1991	Curry			
	5,027,400	06/1991	Baji et al.			
	5,068,916	11/1991	Harrison et al.			
	5,101,416	03/1992	Fenton et al.			
	5,103,459	04/1992	Gilhousen et al.			
	5,114,375	05/1992	Wellhausen et al.			
	5,115,309	05/1992	Hang			
	5,226,044	07/1993	Gupta et al.			
	5,268,900	12/1993	Hluchyj et al.			
	5,282,222	01/1994	Fattouche et al.			
5,325,419	06/1994	Connolly et al.				
5,353,332	10/1994	Raith et al.				
5,355,374	11/1994	Hester et al.				
5,373,502	12/1994	Turban				

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/V.H./	5,375,124	12/1994	D'Ambrogio, et al.			
	5,388,102	02/1995	Griffith et al.			
	5,394,473	02/1995	Davidson			
	5,412,429	05/1995	Glover			
	5,414,728	05/1995	Zehavi			
	5,442,625	08/1995	Gitlin et al.			
	5,446,727	08/1995	Bruckert et al.			
	5,463,629	10/1995	Ko			
	5,471,463	11/1995	Hulbert			
	5,481,533	01/1996	Honig et al.			
	5,490,136	02/1996	Sereno et al.			
	5,511,068	04/1996	Sato			
	5,559,789	09/1996	Nakano et al.			
	5,581,575	12/1996	Zehavi et al.			
	5,585,850	12/1996	Schwaller			
	5,586,119	12/1996	Scribano et al.			
	5,590,409	12/1996	Sawahashi et al.			
	5,592,470	01/1997	Rudrapatna et al.			
	5,592,471	01/1997	Briskman			
	5,598,416	01/1997	Yamada et al.			
	5,606,580	02/1997	Mourot et al. ¹			
	5,617,423	04/1997	Li et al.			
	5,619,492	04/1997	Press et al.			
	5,619,524	04/1997	Ling et al.			
	5,642,348	06/1997	Barzegar et al.			

1 Corresponds to EP 0635949

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/V.H./	5,642,377	06/1997	Chung et al.			
	5,655,001	08/1997	Cline et al.			
	5,657,358	08/1997	Panech et al.			
	5,663,958	09/1997	Ward			
	5,663,990	09/1997	Bolgiano et al.			
	5,673,259	09/1997	Quick, Jr.			
	5,687,194	11/1997	Paneth et al.			
	5,689,502	11/1997	Scott			
	5,697,059	12/1997	Carney			
	5,699,364	12/1997	Sato et al.			
	5,708,656	01/1998	Noneman et al.			
	5,734,646	03/1998	I et al.			
	5,742,592	04/1998	Scholefield et al.			
	5,745,484	04/1998	Scott			
	5,758,288	05/1998	Dunn et al.			
	5,781,542	07/1998	Tanaka et al.			
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	5,784,406	07/1998	DeJaco et al.			
	5,790,549	08/1998	Dent			
	5,790,551	08/1998	Chan			
	5,793,744	08/1998	Kanerva et al.			
	5,802,046	09/1998	Scott			
	5,802,465	09/1998	Hamalainen et al.			
	5,812,131	09/1998	Bertram			
	5,825,807	10/1998	Kumar			
	5,828,659	10/1998	Teder et al.			

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/V.H./	5,828,662	10/1998	Jalali et al.			
	5,841,768	11/1998	Ozluturk et al.			
	5,844,894	12/1998	Dent			
	5,845,211	12/1998	Roach			
	5,854,786	12/1998	Henderson et al.			
	5,856,971	01/1999	Gitlin et al.			
	5,859,840	01/1999	Tiedemann, Jr. et al.			
	5,859,879	01/1999	Bolgiano et al.			
	5,872,786	02/1999	Shobatake			
	5,881,060	03/1999	Morrow et al.			
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	5,884,196	03/1999	Lekven et al.			
	5,894,473	04/1999	Dent			
	5,896,376	04/1999	Alperovich et al.			
	5,898,929	04/1999	Haartsen			
	5,910,944	06/1999	Callicotte et al.			
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	5,914,950	06/1999	Tiedemann, Jr. et al.			
	5,923,650	07/1999	Chen et al.			
	5,930,230	07/1999	Odenwalder et al.			
	5,950,131	09/1999	Vilmur			
	5,956,332	09/1999	Rasanen et al.			
	5,959,980	09/1999	Scott			
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	5,991,279	11/1999	Haugli et al.			
	6,001,800	12/1999	Mehta et al.			

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/V.H./	6,002,690	12/1999	Takayama et al.			
	6,005,855	12/1999	Zehavi et al.			
	6,009,106	12/1999	Rustad et al.			
	6,011,800	01/2000	Nadgauda et al.			
	6,016,312	01/2000	Storn et al.			
	6,028,868	02/2000	Yeung et al.			
	6,031,827	02/2000	Rikkinen et al.			
	6,049,535	04/2000	Ozluturk			
	6,049,538	04/2000	Scott			
	6,052,385	04/2000	Kanerva et al.			
	6,058,338	05/2000	Agashe et al.			
	6,064,678	05/2000	Sindhushayana et al.			
	6,069,880	05/1999	Owen et al.			
	6,069,883	05/2000	Ejzak et al.			
	6,078,572	06/2000	Tanno et al.			
	6,081,536	06/2000	Gorsuch et al.			
	6,088,335	07/2000	I et al.			
	6,094,421	07/2000	Scott			
	6,094,576	07/2000	Häkkinen et al.			
	6,097,733	08/2000	Basu et al.			
	6,101,176	08/2000	Honkasalo et al.			
	6,104,708	08/2000	Bergamo			
	6,111,863	08/2000	Rostoker et al.			
	6,112,092	08/2000	Benveniste			
	6,134,233	10/2000	Kay			
	6,151,332	11/2000	Gorsuch et al.			

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/V.H./	6,157,619	12/2000	Ozluturk et al.			
	6,161,013	12/2000	Anderson et al.			
	6,163,707	12/2000	Miller			
	6,169,731	01/2001	Stewart et al.			
	6,196,362	02/2001	Darcie et al.			
	6,198,723	03/2001	Parruck et al.			
	6,208,871	03/2001	Hall et al.			
	6,212,175	04/2001	Harsch			
	6,214,342	04/2001	Rege			
	6,215,798	04/2001	Carneheim et al.			
	6,222,828	04/2001	Ohlson et al.			
	6,222,832	04/2001	Proctor			
	6,226,527	05/2001	Dalsgaard et al.			
	6,233,439	05/2001	Jalali			
	6,236,647	05/2001	Amalfitano			
	6,243,372	06/2001	Petch et al.			
	6,246,673	06/2001	Tiedmann et al.			
	6,259,683	07/2001	Sekine et al.			
	6,262,980	07/2001	Leung et al.			
	6,263,013	07/2001	Hendrickson			
	6,269,075	07/2001	Tran			
	6,269,088	07/2001	Masui et al.			
	6,272,168	08/2001	Lomp et al.			
	6,285,665	09/2001	Chuah			
	6,307,840	10/2001	Wheatley III et al.			
	6,310,859	10/2001	Morita et al.			

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EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
/V.H./	6,353,412	03/2002	Soliman			
	6,356,555	03/2002	Rakib			
	6,366,570	04/2002	Bhagalia			
	6,366,786	04/2002	Norman et al.			
	6,370,117	04/2002	Koraitim et al.			
	6,373,830	04/2002	Ozluturk			
	6,373,834	04/2002	Lundh et al.			
	6,377,548	04/2002	Chuah			
	6,377,809	04/2002	Rezaifar et al.			
	6,388,999	05/2002	Gorsuch et al.			
	6,389,000	05/2002	Jou			
	6,396,804	05/2002	Odenwalder			
	6,418,148	07/2002	Kumar et al.			
	6,452,913	09/2002	Proctor, Jr.			
	6,456,608	09/2002	Lomp			
	6,469,991	10/2002	Chuah			
	6,473,623	10/2002	Benveniste			
	6,498,785	12/2002	Derryberry et al.			
	6,498,790	12/2002	Shaheen et al.			
	6,504,830	01/2003	Östberg et al.			
	6,519,452	02/2003	Agostino et al.			
	6,519,651	02/2003	Dillon			
	6,526,039	02/2003	Dahlman et al.			
	6,526,064	02/2003	Bousquet2			
	6,526,281	02/2003	Gorsuch et al.			

2 Corresponds to FR 2761557

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/V.H./	6,532,365	03/2003	Anderson et al.			
	6,542,481	04/2003	Foore et al.			
	6,545,986	04/2003	Stellakis			
	6,545,994	04/2003	Nelson et al.			
	6,567,416	05/2003	Chuah			
	6,570,865	05/2003	Masui et al.			
	6,571,296	05/2003	Dillon			
	6,574,211	06/2003	Padovani et al.			
	6,597,913	07/2003	Natarajan			
	6,687,509	02/2004	Schmutz et al.			
	6,745,484	04/1998	Scott			
	6,768,727	07/2004	Sourour et al.			
	6,795,416	09/2004	Han et al.			
	6,831,910	12/2004	Moon et al.			
	2001/0038674	11/2001	Trans			
	2002/0012332	05/2002	Tiedmann et al.			
	2003/0060224	03/2003	Nelson et al.			
	2003/0123401	07/2003	Dean			
	2004/0009785	01/2004	Nelson et al.			
	2004/0160910	08/2004	Gorsuch et al.			
	2004/0180696	09/2004	Foore et al.			

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
/V.H./	443061	08/1991	EP				
/V.H./	526106	02/1993	EP				

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/V.H./	682423	11/1995	EP				
	682426	11/1995	EP				
	719062	06/1996	EP				
	720309	12/1995	EP				
	2326524	12/1998	GB				
|	95/08900	03/1995	WO				
|	96/08934	03/1996	WO				
|	96/27994	12/1996	WO				
|	96/37081	11/1996	WO				
|	97/23073	06/1997	WO				
|	97/26726	07/1997	WO				
|	97/32412	09/1997	WO				
|	97/46044	12/1997	WO				
|	99/31811	06/1999	WO				
|	99/52306	10/1999	WO				
|	99/63682	12/1999	WO				

OTHER DOCUMENTS

EXAMINER INITIAL	DESCRIPTION (Including Author, Title, Date, Pertinent Pages, Etc.)
/V.H./	Attachment 2, <i>High Speed Data RLP</i> Lucent Technologies, Version 0.1, January 16, 1997.
/V.H./	Azad et al., <i>Multirate Spread Spectrum Direct Sequence CDMA Techniques</i> , 1994, The Institute of Electrical Engineers.
/V.H./	Bell Labs Technical Journal, Lucent Technologies, Volume 2, Number 3, Summer 1997.

EXAMINER /Venkatesh Haliyuri/	DATE CONSIDERED 09/17/2008
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EXAMINER: Initial if citation 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.

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use several sheets if necessary)	ATTY. DOCKET NO. TAN-2-1403.06.US	SERIAL NO. 09/997,733
	APPLICANT James A. Proctor, Jr.	
	FILING DATE November 29, 2001	GROUP 2619

EXAMINER INITIAL	DESCRIPTION (Including Author, Title, Date, Pertinent Pages, Etc.)
/V.H./	Budka et al., Cellular Digital Packet Data Networks, Bell Labs Technical Journal, Summer 1997, Pages 164-181.
↓	Cellular Digital Packet Data, System Specification, Release 1.1, January 19, 1995.
↓	Chih-Lin I et al., IS-95 Enhancements for Multimedia Services, Bell Labs Technical Journal, Pages 60-87, Autumn 1996.
↓	Chih-Lin I et al., Load and Interference Based Demand Assignment (LIDA) for Integrated Services in CDMA Wireless Systems, November 18, 1996, Pages 235-241.
↓	Chih-Lin I et al., Multi-Code CDMA Wireless Personal Communications Networks, June 18, 1005.
↓	Chih-Lin I et al., Performance of Multi-Code CDMA Wireless Personal Communications Networks, July 25, 1995.
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↓	<i>Data Service Options for Wideband Spread Spectrum Systems. TIA/EIA Interim Standard. TIA/EIA/IS-707-A. April 1999.</i>
↓	<i>Data Service Options for Wideband Spread Spectrum Systems: Introduction, PN-3676. 1 (to be published as TIA/EIA/IS-707.1), March 20, 1997 (Content Revision 1).</i>
↓	<i>Data Services Option Standard for Wideband Spread Spectrum Digital Cellular System. TIA/EIA/IS-99. TIA/EIA Interim Standard. July 1995.</i>
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/V.H./	Data Standard, Packet Data Section, PN-3676.5 (to be published as T1A/E1A/IS-DATA.5), December 8, 1996, Version 02 (Content Revision 03).
	Draft Text for "95C" Physical Layer (Revision 4), Part 1, Document #531-981-20814-95C, Part 1 on 3GPP2 website (ftp://ftp.3gpp2.org/tsgc/working/1998/1298_Maui/WG3-TG1/531-98120814-95c,%20part%201.pdf).
	Draft Text for "95C" Physical Layer (Revision 4), Part 2, Document #531-981-20814-95C, part 2 on 3GPP2 website (ftp://ftp.3gpp2.org/tsgc/working/1998/1298_Maui/WG3-TG1/531-98120814-95c,%20part%202.pdf , 1998).
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V.H./	Honkasalo, Harri. <i>High Speed Data Air Interface</i> . 1996.
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/V.H./	Melanchuk et al. <i>CDPD and Emerging Digital Cellular Systems</i> , Digest of Papers of COMPCN, Computer Society Conference 1996, Santa Clara, CA, no. CONF. 41, February 25, 1996, pp. 2-8, XP000628458.
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/V.H./	Reed et al., Iterative Multiuser Detection for CDMA with FEC: Near-Single-User Performance, IEEE Transactions on Communications, Vol. 46, No. 12, December 1998, Pages 1693-1699.
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	Simpson, W. (Editor). "RFC 1662 – PPP in HDLC-Like Framing." Network Working Group, July 1994, pgs. 1-17. http://www.faqs.org/rfcs/rfc1662.html
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/V.H./	<u>WWW.CDG.ORG/NEWS/PRESS/1997.ASP. CDA Press Release Archive, 1997.</u>

09/17/2008

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**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**Page 1 of 5

PATENT NO. : 7,496,072
APPLICATION NO.: 09/997,733
ISSUE DATE : February 24, 2009
INVENTOR(S) : James A. Proctor Jr.

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

ON THE FACE PAGE

At section (56), U.S. PATENT DOCUMENTS, page 2, left column, after line beginning with "5,373,502", delete "5,375,124 A 12/1994 D'Amrogio et al." and insert therefor --5,375,124 A 12/1994 D'Ambrogio et al.--.

At section (56), U.S. PATENT DOCUMENTS, page 2, left column, after line beginning with "5,758,288", delete "5,781,542 A * 7/1998 Ault et al. ... 370/342" and insert therefor --5,781,542 A * 7/1998 Tanaka et al. ... 370/342--.

At section (56), U.S. PATENT DOCUMENTS, page 2, right column, after line beginning with "6,031,827", delete "6,049,535 A * 4/2000 Ozukturk et al. ... 370/335" and insert therefor --6,049,535 A * 4/2000 Ozluturk et al. ... 370/335--.

At section (56), U.S. PATENT DOCUMENTS, page 3, left column, delete line beginning with "6,504,830" and insert therefor --6,504,830 B1 1/2003 Östberg et al. ... 370/342--.

At section (56), U.S. PATENT DOCUMENTS, page 3, left column, delete line beginning with "2002/0012332", and insert therefor --2002/0012332 A1 1/2002 Tiedemann et al.--.

At section (56), OTHER PUBLICATIONS, page 3, right column, delete line 2, and insert therefor --cations Networks, Jun. 18, 1995--.

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

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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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UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page 2 of 5

PATENT NO. : 7,496,072
 APPLICATION NO.: 09/997,733
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 INVENTOR(S) : James A. Proctor Jr.

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At section (56), OTHER PUBLICATIONS, page 3, right column, delete line beginning with “#531-981-20814-95C” and insert therefor --#531-981-20814-95C , part 2 on 3GPP2 website (ftp://ftp.3gpp2.org/--.

At section (56), OTHER PUBLICATIONS, page 4, at bottom of left column, insert --Attachment 2, High Speed Data RLP Lucent Technologies, Version 0.1, January 16, 1997. Azad et al., Multirate Spread Spectrum Direct Sequence CDMA Techniques, 1994, The Institute of Electrical Engineers. Data Service Options for Wideband Spread Spectrum Systems. TIA/EIA Interim Standard. TIA/EIA/IS-707-A. April 1999. Data Service Options for Wideband Spread Spectrum Systems: Introduction, PN-3676.1 (to be published as TIA/EIA/IS-707.1), March 20, 1997 (Content Revision 1). Data Services Option Standard for Wideband Spread Spectrum Digital Cellular System. TIA/EIA/IS-99. TIA/EIA Interim Standard. July 1995. Data Services Options Standard for Wideband Spread Spectrum Systems: Packet Data Services. PN-3676.5 (to be published as TIA/EIA/IS-707.5)Ballot Version, May 30, 1997. Ejzak, et al. Proposal for High Speed Packet Data Service, Version 0.1. Lucent Technologies, January 16, 1997. Heine, Gunnar, “The Air-Interface of GSM”, in GSM Networks: Protocols, Terminology, and Implementation, (MA: Artech House, Inc.), pp. 89-100 (1999). Honkasalo, Harri. High Speed Data Air Interface. 1996. Introduction to cdma2000 Spread Spectrum Systems, Release C. TIA/EIA Interim Standard. TIA/EIA/IS-2000.1-C. May, 2002.

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 INVENTOR(S) : James A. Proctor Jr.

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Knisely, Douglas, N. Telecommunications Industry Association Subcommittee TR-45.5 - Wideband Spread Spectrum Digital Technologies Standards. Banff, Alberta. February 24, 1997 (TR45.5/97.02.24) 21.

Knisely, Douglas, N. Telecommunications Industry Association Subcommittee TR-45.5 - Wideband Spread Spectrum Digital Technologies Standards, Working Group III-Physical Layer. Banff, Alberta. February 24, 1997 (TR45.5/97.02.24)22.

Melanchuk et al.. CDPD and Emerging Digital Cellular Systems, Digest of Papers of COMPCN, Computer Society Conference 1996, Santa Clara, CA, no. CONF. 41, February 25, 1996, pp. 2-8, XP000628458.

Motorola, Version 1.0. Motorola High Speed Data Air Interface Proposal Comparisons and Recommendations. January 27, 1997.

MSC-BS Interface (A-Interface) for Public 800 MHz. TIA/EIA/IS-634-A. TIA/EIA Interim Standard (Revision of TIA/EIA/IS-634) July 1998.

MSC-BS Interface for Public 800 MHz. TIA/EIA/IS-634. TIA/EIA Interim Standard, December 1995.

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Physical Layer Standard for cdma2000 Spread Spectrum Systems, Release C. TIA/EIA Interim Standard. TIA.EIA/IS-2000.2C. May, 2002.

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PATENT NO. : 7,496,072
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 INVENTOR(S) : James A. Proctor Jr.

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 Simpson, W. (Editor). "RFC 1661 - The Point-to-Point Protocol (PPP)." Network Working Group, July 1994, pgs. 1-35. <http://www.faqs.org/rfcs/rfc1661.html>.
 Simpson, W. (Editor). "RFC 1662 - PPP in HDLC-Like Framing." Network Working Group, July 1994, pgs. 1-17. <http://www.faqs.org/rfcs/rfc1662.html>.
 Stage 1 Service Description for Data Services - High Speed Data Services (Version 0.10) CDG RF 38. December 3, 1996.
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 Upper Layer (Layer 3) Signaling Standard for cdma2000 Spread Spectrum Systems, Release C. TIA/EIA Interim Standard. TIA/EIA/IS-2000.5-C. May, 2002.
 WWW.CDG.ORG/NEWS/PRESS/1997.ASP. CDA Press Release Archive, 1997.--.

IN THE SPECIFICATION

At column 2, line 21, after the word "Access" delete "(EDNA)" and insert therefor --(FDMA)--.

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PATENT NO. : 7,496,072
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 ISSUE DATE : February 24, 2009
 INVENTOR(S) : James A. Proctor Jr.

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:

At column 3, delete lines 5-13, and insert therefor --In addition, the existing CDMA system requires certain operations before a channel can be used. Both access and traffic channels are modulated by so-called long code pseudonoise (PN) sequences; therefore, in order for the receiver to work properly it must first be synchronized with the transmitter. The setting up and tearing down of channels therefore requires overhead to perform such synchronization. This overhead results in a noticeable delay to the user of the subscriber unit.--.

At column 5, line 57, after the word "standard" delete "ISON" and insert therefor --ISDN--.

At column 6, line 58, before the word "these" delete "bands" and insert therefor --band--.

At column 9, line 47, after "400," delete "to" and insert therefor --or--.

IN THE CLAIMS

At claim 1, column 10, line 17, before the words "at least" insert --control--.

At claim 6, column 10, line 50, before the words "no data" delete "there is".

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

Volpe and Koenig, P.C.
 United Plaza, Suite 1600
 30 South 17th Street
 Philadelphia, PA 19103

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.

DATE : 6/10/09

Paper No.: _____

TO SPE OF : ART UNIT 2419SUBJECT : Request for Certificate of Correction for Appl. No.: 9/997733 Patent No.: 7496072A2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert

Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

 Approved

All changes apply.

 Approved in Part

Specify below which changes do not apply.

 Denied

State the reasons for denial below.

Comments: _____

Verified and approved certificate of correction filed on 06/10/2009. /V.H./

2419

SPE

Art Unit



Paper No. 3

Patrick J. S. Inouye, P.S.
810 Third Avenue
Suite 258
Seattle, WA 98104

MAIL

JUN 13 2002

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of)
Janet MARQUES)
Application No. 09/997,759)
Filed: November 30, 2001)
For: APPLICATION-INDEPENDENT)
SYSTEM AND PROCESS FOR)
DYNAMICALLY GENERATING)
LOW-COMPLEXITY GRAPHICS)
EMBEDDED AS WEB CONTENT)
USING A TAG-DELIMITED SCRIPT)

**DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 18, 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.

Serial No. 09/997,759
Decision on Petition

- Page 2 -



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

cc: Hickman, Palermo, Truong & Becker
1600 Willow Street
San Jose, CA 95125



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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WELSH & KATZ, LTD.
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
T. Mukhopadhyay et al :
Application No. 09/997,774 : DECISION ON PETITION
Filed: November 30, 2001 :
Attorney Docket No. :
7416/78598-PPA 6 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2007 to revive the above-identified application. In view of the facts of this case, the petition is being treated as a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment.

The petition treated under 37 CFR 1.181(a) is GRANTED.

A Notice of Abandonment was mailed on May 31, 2007 stating this application is abandoned since "[t]he two-month suspension period has ended and [the] RCE is improper since no submission under 37 CFR 1.114 has been filed."

A review of the file record discloses that a final Office action was mailed on May 17, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 17, 2006, or on or before November 17, 2006 with the appropriate extension of time fee. On August 17, 2006, petitioner submitted an amendment, which was deemed by the Advisory Action of September 28, 2006 to not place the application in condition for allowance. Thereafter, on November 17, 2006, a request for continued examination (RCE) under 37 CFR 1.114, was filed, along with a request to suspend for two months and a three (3) month extension of time fee of \$1,020. In a communication mailed on May 21, 2007, the examiner granted the request to suspend under 37 CFR 1.103 and indicated that applicant is required to notify the examiner and request

continuance of prosecution or a further suspension, citing MPEP Section 709. A Notice of Abandonment was mailed on May 21, 2007 holding this application abandoned for the reasons stated above.

MPEP 706.07(h)(II), under submission requirement, states that the submission in an RCE may be "a previously filed amendment after final (whether or not entered) * * *. Therefore, a submission was present at the time of filing the RCE on November 17, 2006; i.e., the amendment filed on August 17, 2006 in response to the final Office action of May 17, 2006. It should be noted here that an examiner cannot grant a request to suspend where the submission requirement has not been met under 37 CFR 1.114. As the request to suspend was granted, it was recognized that a proper submission under 37 CFR 1.114 had been submitted. Accordingly, the statement in the Notice of Abandonment that there was no submission as required by 37 CFR 1.114 was improper.

Further, an application does not go abandoned merely because an applicant fails to notify the Office to either request continuance of prosecution or a further suspension. As noted in MPEP 709, notification of the approval of the suspension will be mailed to the applicant, which acts to suspend further action by the examiner. Once the suspension period has expired, the application will be placed on the examiner's docket for further prosecution. An applicant may at any time during suspension submit a letter requesting examination but does not have to request the Office to act on his case after a suspension has expired. Therefore, this application did not go abandoned for failure of the applicant to notify the Office to either continue prosecution or request a further suspension.

For the reasons stated above, the Notice of Abandonment mailed on May 31, 2007 is vacated and the holding of abandonment withdrawn.

In view of the favourable treatment of this petition under the provisions of 37 CFR 1.181(a), the \$1,500 fee submitted for the petition to revive is unnecessary and will be refunded to petitioner's deposit account in due course.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries concerning either the

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

This application is being referred to Technology Center AU 2616 for processing the RCE filed on November 17, 2006 and for taking appropriate action in the normal course of business on the submission under 37 CFR 1.114.



Frances Hicks

Petitions Examiner
Office of Petitions



RONALD M. ANDERSON
MICROSOFT CORPORATION
600 108TH AVENUE N.E., SUITE 507
BELLEVUE, WA 98004

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of Ledoux et al. :
Application No. 09/997,801 : Decision on Petition
Filing Date: November 30, 2001 :
Attorney Docket No. MICR0218 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2005, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 29, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Patent Publications will be notified of the instant decision so that it may take steps to have the application issued as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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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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CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of :
Charles Martinka :
Application No. 09/997,805 : DECISION ON PETITION
Filed: November 30, 2001 :
Attorney Docket No. 121 P 120 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the nonfinal Office Action mailed June 16, 2004, which set a three (3) month shortened statutory period to reply. Accordingly, this application became abandoned on September 17, 2004. A Notice of Abandonment was mailed on January 18, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay.

The petition is **granted**.

The matter is being referred to Technology Center Art Unit 3723.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

#4
1270-02



DEC 10 2002

Paper No. 4

Townsend and Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of:)	
Rajiv Maheshwari)	
Application No. 09/997,839)	
Filed: November 29, 2001	)	DECISION ON REQUEST FOR
For: METHOD FOR TRANSFERRING	)	WITHDRAWAL AS ATTORNEY
MESSAGES ALONG OPTIMALLY)	
REDUNDANT NETWORK PATHS)	
IN A DISTRIBUTED)	
COMMUNICATION NETWORK)	

This is a decision on the Request To Withdraw from Representation filed November 18, 2002:

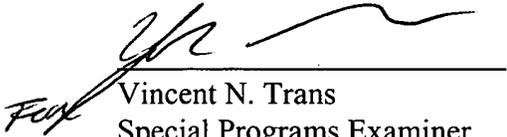
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that 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 Charles J. Kulas alone and does not contain a clear indication that Mr. Kulas 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.

Serial No. 09/997,839
Decision on Petition

Page 2

A handwritten signature in black ink, appearing to read "V. N. Trans", is written over a horizontal line. To the left of the signature, the word "Fax" is written in a cursive script.

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



MAIL

FEB 27 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 6

Charles J. Kulas
TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of:)
Rajiv Maheshwari)
Application No. 09/997,839)
Filed: November 29, 2001)
For: METHOD FOR TRANSFERRING)
MESSAGES ALONG OPTIMALLY)
REDUNDANT NETWORK PATHS)
IN A DISTRIBUTED)
COMMUNICATION NETWORK)

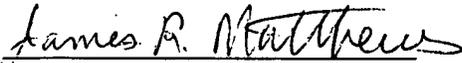
**DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY**

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 filed January 21, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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



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

cc: Mr. Rajiv Maheshwari
SLAM DUNK NETWORKS, INC.
100 Redwood Shores Parkway, Suite 100
Redwood City, CA 94065



MICHAEL E. KLICPERA
PO BOX 573
LA JOLLA CA 92038-0573

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SEP 08 2006

OFFICE OF PETITIONS

In re Application of :
Segal et al. :
Application No. 09/997,855 : **DECISION ON PETITION**
Filed: November 29, 2001 :
Attorney Docket No: 70802.01 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2006, to revive the above-identified application.

This petition is hereby **Dismissed**.

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

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on March 30, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 1, 2003. A Notice of Abandonment was mailed on June 5, 2006.

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

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/997,855	Applicant(s) SEGAL ET AL.	
Examiner Aamer S. Ahmed	Art Unit 3763	

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

THE REPLY FILED 31 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) They raise new issues that would require further consideration and/or search (see NOTE below);
(b) They raise the issue of new matter (see NOTE below);
(c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
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:
The prior art as cited in the previous office action anticipates and renders obvious the claims as recited.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. Other: _____.



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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Segal et al.
Application No. 09/997,855
Filed: November 29, 2001
Attorney Docket No: 70802.01

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed November 8, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on March 30, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 1, 2003. A Notice of Abandonment was mailed on June 5, 2006. A petition under 37 CFR 1.137(b) was dismissed on September 8, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and the previously submitted amendment will be forwarded to Technology Center 3700 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

According to Kriegel, application papers were forwarded to the last known address of DePerault on May 22, 2002. Thereafter on June 3, 2002, the papers were returned to Kriegel with a U.S. Postal Service label reading "Return to Sender - No Forward Order on File." On June 14, 2002, an internet search was conducted to locate DuPerault. However, no listings for DuPerault were found.

The declaration filed March 28, 2002 and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

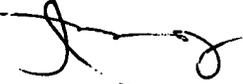
As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The Change of Correspondence Address filed with the instant petition has been entered and made of record. Future correspondence concerning this application will be mailed to the above address of record.

Lastly, it is noted that while the petition indicates that the filing date of the above-identified application is believed to be November 29, 2001, Office records indicate that the application has been accorded a filing date of November 30, 2001. If petitioner believes he is entitled to a filing date of November 29, 2001, petitioner has **two months** from the mailing date of this petition to file the appropriate petition under 37 CFR 1.53.

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

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


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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 11

Rader, Fishman & Grauer PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, MI 48304-0610

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AUG 04 2004

OFFICE OF PETITIONS

In re Application of : DECISION GRANTING PETITION
Timothy A. Hegemier, et al. : UNDER 37 CFR 1.137(b) AND NOTICE
Application No. 09/997,861 : RESETTING PERIOD FOR REPLY TO
Filed: November 29, 2001 : NONFINAL OFFICE ACTION
Attorney Docket No. 60680-1489 :

This is a decision on the petition, filed November 28, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 25, 2002 and November 27, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-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.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 3700 to await a reply to the Final Office action, the period of which is restarted to run from the mailing date of this decision on petition as noted above.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
SW FIFTH AVENUE
PORTLAND, OR 97204

COPY MAILED

OCT 14 2003

OFFICE OF PETITIONS

In re Application of :
David E. Slobodin :
Application No. 09/997,873 :
Filed: November 29, 2001 :
Attorney Docket No. :
107773-132351 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed August 19, 2003, to revive the above-identified application.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed February 4, 2003, which set a one (1) month period for reply. No response having been received, the application became abandoned on March 5, 2003. A Notice of Abandonment was mailed on July 9, 2003.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the February 4, 2003 Notice is filed with the instant petition. Accordingly, the petition is granted.

The attorney docket number change has been entered and made of record.

The correspondence address change has been entered and made of record.

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



#5
5/30/02

MAY 30 2002

Paper No. 5

Alan S. Hodes
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

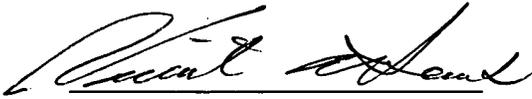
In re Application of:)	
William J. Earl and Jeff Tofano)	
Application No. 09/997,877	)	DECISION ON REQUEST FOR
Filed: November 29, 2001	)	WITHDRAWAL AS ATTORNEY
For: FAULT TOLERANCE USING)	
LOGICAL CHECKPOINTING IN		
COMPUTING SYSTEMS		

This is a decision on the Request To Withdraw from Representation filed May 6, 2002 and supplemented by the filing of May 20, 2002.

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

The request filed May 20, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

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



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

cc: Barry N. Young
GRAY CARY WARE & FREIDENRICH LLP
1755 Embarcadero Road
Palo Alto, CA 94303-3340



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

Stevens, Davis, Miller & Mosher, L.L.P.
1615 L Street, N.W., Suite 850
Washington, DC 20036

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AUG 23 2002

OFFICE OF PETITIONS

In re Application of :
Michael Hardesty :
Application No. 09/997,880 :
Filed: November 30, 2001 :
Attorney Docket No. 20887 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2002, to revive the above-identified application.

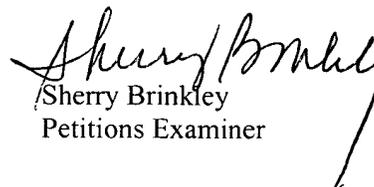
The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed December 14, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 15, 2002

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

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


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


Sherry Brinkley
Petitions Examiner



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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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NOV 09 2004

OFFICE OF PETITIONS

In re Application of :
Robert R. Keller Jr. :
Application No. 09/997, 892 :
Filed: November 30, 2001 :
Attorney Docket No. 72312 :

ON PETITION

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 **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed October 31, 2003, which set a shortened statutory period for reply of three (3) months. A proposed reply was received on February 2, 2004, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 2, 2004.

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

This matter is being forwarded to Technology Center Art Unit 2837 for appropriate action on the Appeal Brief filed February 2, 2004.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/19/08

TO SPE OF : ART UNIT 2837 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/997,892 Patent No.: 7,405,530

Attn: Paul Ip

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to enter changes to claims as requested in the COCIN?**

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/19/08

TO SPE OF : ART UNIT 2837 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/997,892 Patent No.: 7,405,530

Attn: Paul Ip

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

***ATTN: Ok to enter changes to claims as requested in the COCIN?**

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**SPE /Walter Benson/
Art Unit 2837**



MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

COPY MAILED

AUG 12 2003

OFFICE OF PETITIONS

Applicant: Kool
Appl. No.: 09/997,931
Filing Date: November 30, 2001
Title: CIRCULAR DNA VECTORS FOR SYNTHESIS OF RNA AND DNA
Attorney Docket No.: 220.00010150
Pub. No.: US 2003/0087241 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 May 28, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains several material errors.

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 dependent claim 85, wherein "the RNA molecules range in length from about 50 to 10⁴ nucleotides" is misspelled as "the RNA molecules range in length from about 50 to 104 nucleotides" is not a material mistake, as the error is a typographical error, the phrase was correctly written in the specification and is highlighted by the improper dependency in claim 86 and furthermore the claim has been canceled. Since the specification was accurately published, one can read and understand the content of the application and if someone was confused by the error, it is clearly written in the specification. It is also not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or to determine the scope of the patent application publication or of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The misspelling of "delectably" for "detectably" in dependent claim 90 is a minor typographical error which is clearly understandable from reading the sentence and in which the term is used, as the term is not read in a vacuum. It is also not a material mistake because it 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"

¹Changes 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.

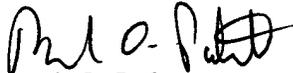
Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

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 1635 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



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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
MAILSTOP: KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Bryce A. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7634446	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/997,946	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **3063** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Wagner, Murabito, Hao, LLP
Two North Market St.
Third Floor
San Jose, CA 95113

OCT 18 2005

In re Application of:	:	
Aflatooni et al.	:	
Serial No.: 09/997,982	:	DECISION ON REQUEST TO WITHDRAW
Filed: November 29, 2001	:	FROM RECORD
Attorney Docket No.: LWM-A072	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed November 19, 2004.

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 Glenn D. Barnes.

The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time. All future communications from the Office will be directed to Patterson, Thunte, Skaar & Christensen, PA, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin
Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Patterson, Thunte, Skaar & Christensen, PA
4800 IDS Center
80 South 8th St.
Minneapolis, MN 55402-2100



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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IBM Corporation Intellectual Property Law
Dept. 917/Bldg. 006-1
3605 Highway 52 North
Rochester, MN 55901-7829

Mail Date: 04/21/2010

Applicant : Jeremy Alan Arnold : DECISION ON REQUEST FOR
Patent Number : 7644394 : RECALCULATION of PATENT
Issue Date : 01/05/2010 : TERM ADJUSTMENT IN VIEW
Application No : 09/997,990 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/30/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **2266** 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.



Paper No. 8

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JUL 16 2002

OFFICE OF PETITIONS

In re Application of	:	
Julian, et al.	:	
Application No. 09/998,004	:	DECISION GRANTING
Filed: November 28, 2001	:	PETITION
Attorney Docket No. 17516-002580US	:	
For: ENDOSCOPIC BEATING-HEART	:	
STABILIZER AND VESSEL OCCLUSION	:	
FASTENER	:	

This is a decision on the petition, filed February 28, 2002 (certificate of mailing date February 15, 2002), requesting, in effect, partial withdrawal of the December 17, 2001 Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it states that Figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C appear to have been omitted from the application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on November 28, 2001. On December 17, 2001, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C be accorded a filing date of November 28, 2001 on the basis that 45 sheets of drawing figures, including drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C, were received in the Patent and Trademark Office (PTO) on November 28, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing November 28, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 45 sheets of drawings.

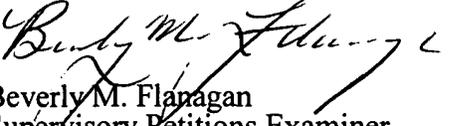
The return postcard constitutes *prima facie* evidence that 45 sheets of drawing figures, including drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C, were filed on November 28, 2001. MPEP 503. Accordingly, the request is granted.

The \$130.00 petition fee will be refunded to petitioners' deposit account no. 20-1430.

The Office acknowledges receipt of a declaration and power of attorney, filed February 28, 2002.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **November 28, 2001**, using the copies of drawing figures 28B, 29-34, 35A, 35B, 36A, 36B, 37, 38A, 38B, 39A, 39B, 40, 40A, 41A, 41B, 42 and 43A-C submitted with the instant petition. Office records will be corrected to show that 45 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.


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


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



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Charles N. J. Ruggiero, Esq.
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
10th Floor
One Landmark Square
Stamford, CT 06901-2682

Paper No.

MAILED

APR 20 2005

In re Application of
Peter Hill et al
Serial No. : 09/998,015
Filed : November 30, 2001
For : Fluid Delivery Device

Director's Office : DECISION ON PETITION
Group 3700 : TO WITHDRAW
: HOLDING OF
: ABANDONMENT
:

This is a decision on a request filed July 21, 2004 to review the holding of abandonment mailed June 29, 2004, for failure to respond to the Office action mailed December 23, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a five-month extension of time request (only a three-month extension was needed and possible), and a copy of a PTO stamped receipt dated June 23, 2004. The communication included a certificate of mailing dated June 23, 2004. It is noted that the original communication has been located and matched with the instant file. Any inconvenience is deeply regretted.

In view of the above, the Notice of Abandonment mailed June 29, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received June 23, 2004.

Summary: Holding of Abandonment Withdrawn.


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

ak/04/19/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 20, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/998042/7067486

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

Charles Tsang

SPE

1654

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. 11

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

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APR 16 2003

OFFICE OF PETITIONS

In re Application of :
Irvin W. Brechner et al :
Application No. 09/998,053 : DECISION GRANTING PETITION
Filed: November 29, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. DNA/1 :

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on November 27, 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.

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 July 24, 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 3622 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



Paper No. 3

Patrick J. S. Inouye, P.S.
810 Third Avenue
Suite 258
Seattle, WA 98104

MAIL

JUN 13 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of)
Daryl Lee PRESLEY)
Application No. 09/998,095)
Filed: November 30, 2001)
For: SYSTEM AND METHOD FOR)
ACTIVELY MANAGING AN)
ENTERPRISE OF CONFIGURABLE)
COMPONENTS)

**DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 18, 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.

Serial No. 09/998,095
Decision on Petition

- Page 2 -

A handwritten signature in black ink, appearing to read "Vincent N. Trans", written over a horizontal line.

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

cc: Hickman, Palermo, Truong & Becker
1600 Willow Street
San Jose, CA 95125



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

COPY MAILED

MAR 09 2006

Director's Office
Office of Patent Publication

In re Application of :
GEREN, MICHAEL D., et al. :
Application No. 09/998,103 : **DECISION ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. EN11346 :

This is a decision on the Petition For Withdrawal Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on February 7, 2006.

The petition is **DISMISSED**.

The application was held abandoned for applicant's failure to timely file a proper reply to the Office letter mailed on August 8, 2005. Accordingly, the Notice of Abandonment was mailed January 6, 2006.

On August 8, 2005, the Office mailed to Motorola Inc. the Notice Of Drawings Inconsistency With Specification (Notice). The Notice indicated that an inconsistency exists between the drawings and the Brief Description of the Drawings in the specification. The applicant was required to correct the inconsistency within a time period of one month from the mailing date of the Notice. The Office has no record of receipt of a response to the Notice. Therefore, the application was properly abandoned for failure to timely/properly reply to the Notice.

Petitioner's petition refers to the Part B – Free Transmittal but doesn't address the reason for the abandonment of the above-identified application.

The holding of abandonment will not be withdrawn at this time.

The petitioner should consider petitioning to the Director as follows:

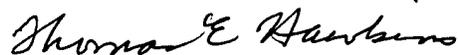
Filing a Petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquiries with respect to the petition under 37 CFR § 1.137 should be directed to the Office of Petition at 703-305-9282 or 9285 or addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P O Box 1450
 Office of Petitions
 Alexandria, VA 22313-1450

Telephone inquiries concerning this decision may be directed to the undersigned at 703-308-9250.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications



MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Geren, et al. : DECISION ON PETITION
Application No. 09/998,103 :
Filed: November 30, 2001 :
Docket No.: EN11346 :

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

The petition is GRANTED.

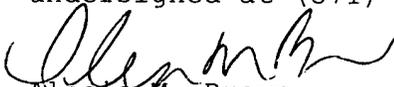
This application became abandoned September 9, 2005 for failure to timely submit the issue fee in response to the Notice mailed August 8, 2005. The Notice set a one month non-extendible statutory period of time for reply. Notice of Abandonment January 6, 2006.

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

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

This application will be forwarded to the Publications Division for further processing.

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


Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100114

DATE : January 14, 2010

TO SPE OF : ART UNIT 2452

SUBJECT : Request for Certificate of Correction on Patent No.: 7337212 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 - 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:

/THU NGUYEN/
Supervisory Patent Examiner.Art Unit 2452



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

Roger Fulghum
Baker Botts L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002-4995

Mail Date: 04/21/2010

Applicant : Chieng-Hwa Lin : DECISION ON REQUEST FOR
Patent Number : 7571445 : RECALCULATION OF PATENT
Issue Date : 08/04/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/998,153 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/29/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1027** 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.



CAESAR RIVISE BERNSTEIN
COHEN & POKOTILOW LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

COPY MAILED

SEP 28 2005

OFFICE OF PETITIONS

In re Patent No. 6,613,524 :
Issue Date: September 2, 2003 :
Application No. 09/998,155 :
Filed: November 29, 2001 :
Attorney Docket No. E1047/20043 :

NOTICE

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



Paper No. 9

Joseph Yang, Ph.D.
Skadden, Arps, Slate, Meagher & Flom. LLP
525 University Avenue
Palo Alto, California 94301

MAIL

FEB 09 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of: Balas N. Kausik et al.)
Application No. 09/998,173)
Filed: December 3, 2001)
For: METHOD AND SYSTEM FOR)
EFFICIENT AND AUTOMATED)
VERSION MANAGEMENT OF)
EMBEDDED OBJECTS IN WEB)
DOCUMENTS)

**DECISION ON PETITION TO
MAKE SPECIAL UNDER
M.P.E.P. §708.02(II):
INFRINGEMENT**

This is a decision on the petition, filed January 9, 2004, requesting to make the above-identified application special under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(II): Infringement.

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

Applicants' 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

COPY MAILED

NOV 19 2003

OFFICE OF PETITIONS

In re Application of :
Shen-Chih et al. :
Application No. 09/998,196 :
Filed: December 3, 2001 : ON PETITION
Attorney Docket No. :
6653-016-999 :

This is a decision in response to the petition under 37 CFR 1.10(c), filed September 18, 2003, Requesting correspondence be accorded a filing date of August 18, 2003, instead of the presently accorded filing date of August 19, 2003.

This Petition is hereby **granted**.

Petitioner alleges that a Response to Restriction Requirement dated 7/17/03, and Change of Correspondence Address were deposited in Express Mail service on August 18, 2003. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV335856560US with a "Date In" of August 18, 2003; a copy of an Express Mail Certification (Certificate of Express Mailing) dated August 18, 2003, containing the same express mail number: EV335856560US, and indicating that a Response to Restriction Requirement dated 7/17/03, and Change of Correspondence Address were deposited in Express Mail service on August 18, 2003. The same Express Mail label number was placed on the Response to Restriction Requirement dated 7/17/03, located in the official file.

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

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods 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

YOON S HAM
PIPER RUDNICK
P.O.BOX 9271
RESTON VA 20195

COPY MAILED
DEC 19 2008

In re Application of :
Cho, et al. :
Application No. 09/998,204 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. 123037-05005045 :
For: RESONATOR, METHOD FOR :
MANUFACTURING FILTER BY USING :
RESONATOR AND FILTER MANUFACTURED :
BY THE SAME METHOD :

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

The petition is **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.

This application became abandoned for failure to timely and properly reply to the Office action, mailed July 6, 2004, which set a one month or thirty day (whichever was longer) period for reply. Applicants obtained a three month extension of time on November 8, 2004 pursuant to 37 CFR 1.136(a). However, a proper reply to the July 6, 2004 Office action was not filed. This application became abandoned on November 7, 2004. A Notice of Abandonment was mailed on January 21, 2005.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 4 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment in November 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Mr. Ham was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible persons and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See *Lawman Armor v. Simon*, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); *Field Hybrids, LLC v. Toyota Motor Corp.*, 2005 U.S. Dist. LEXIS

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

The centralized facsimile number is **(571) 273-8300**.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the 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

LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Cho, et al. :
Application No. 09/998,204 :
Filed: December 3, 2001 :
Attorney Docket No. 123037-05005045 :
For: RESONATOR, METHOD FOR :
MANUFACTURING FILTER BY USING :
RESONATOR AND FILTER MANUFACTURED :
BY THE SAME METHOD :

This is a decision on the reconsideration petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely and properly reply to the Office action, mailed July 6, 2004, which set a one month or thirty day (whichever was longer) period for reply. Applicants obtained a three month extension of time on November 8, 2004 pursuant to 37 CFR 1.136(a). However, a proper reply to the July 6, 2004 Office action was not filed. This application became abandoned on November 7, 2004. A Notice of Abandonment was mailed on January 21, 2005.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of divisional Application No. 12/257,333, filed October 23, 2008.

After the mailing of this decision, the application will be returned to Files Repository.

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Mailed: SEP 21 2004

spg
Paper Number _____

In re application of :
Sadao Kadokura :
Serial No. 09/998,235 :
Filed: December 3, 2001 :
For: FACING-TARGETS-TYPE SPUTTERING APPARATUS :
AND METHOD :

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 1.181(a) originally filed January 21, 2004 and resubmitted June 2, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 19, 2003, for failure to timely file corrected drawings as required by the Notice of Allowability mailed on July 15, 2003 be withdrawn. The petitioner asserts that corrected drawings were timely filed on September 24, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response was properly filed on September 24, 2003 in view of the fact that the originally filed papers having a Patent and Trademark Office date stamp of September 24, 2003 thereon have been located in the USPTO application file. Accordingly, any holding of abandonment is hereby vacated, and the application has been returned to pending status.

The application shall be forwarded to Publications Branch for processing and consideration of the papers filed September 24, 2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036



Paper No. 4

H. Dale Langley, Jr.
The Law Firm of H. Dale Langley, Jr., P.C.
610 West Lynn
Austin, TX 78703

COPY MAILED

MAY 28 2002

In re Application of
Jeffe, et al.
Application No. 09/998,246
Filed: November 30, 2001

OFFICE OF PETITIONS
ON PETITION

This is in response to the paper styled "REQUEST FOR FILE DATE," filed December 27, 2001. This paper is being treated under 37 CFR 1.10(d), as a petition to accord the above-identified application a filing date of November 29, 2001 instead of the presently accorded filing date of November 30, 2001.

Petitioner requests an earlier filing date on the basis that the application was purportedly deposited in Express Mail service on November 29, 2001, pursuant to the requirements of 37 CFR 1.10, but that the USPS entered an incorrect "date-in" on petitioner's "Express Mail" mailing label.

Paragraph (a) of 37 CFR 1.10 states that:

Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See §1.6(a).

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition 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.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be an Express Mail Corporate Account Mailing Statement or a copy of the USPS Track/Confirm system information. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such as the Express Mail number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The instant petition lacks sufficient evidence to establish that on the requested filing date, the application was deposited in Express Mail service prior to the last scheduled pickup for that day. Petitioner has provided no corroborative evidence of the deposit. Accordingly, the instant petition is hereby **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the mailing date of the decision to be considered timely. See, 37 CFR 1.181(f). This time period may **not** be extended under 37 CFR 1.136(a). Further correspondence with respect to this matter should be addressed as follows:

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

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

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

The application is being returned to Technology Center 2100 for examination in due course.

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

JUN -6 2007

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

Pamela J. Sherwood, Ph.D.
BOZICEVIC, FIELD & FRANCIS, LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of :
Dedhar, S. :Decision on Petition
Serial No.: 09/998,250 :
Filed : 30 November 2001 :
Attorney Docket No.: KINE-001CIP5 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 21 December 2006 to requests reconsideration of the restriction requirement mailed 24 February 2003. The delay in acting upon this petition is regretted. It is noted that applicants filed an Appeal Brief on 21 December 2006, concurrent with the filing of this petition.

37 CFR 1.144 states in part, with emphasis added: "... Petition may be deferred until after final action on or allowance of claims to the invention elected, **but must be filed not later than appeal.....**"

Accordingly, the petition filed under 37 CFR 1.144 is **DISMISSED** as untimely.

The application will be forwarded to the Examiner to consider the Appeal Brief filed 21 December 2006.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisluk
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 31 2007

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

Pamela J. Sherwood, Ph.D.
BOZICEVIC, FIELD & FRANCIS, LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Application of :
Dedhar, S. : Decision on Petition
Serial No.: 09/998,250 :
Filed : 30 November 2001 :
Attorney Docket No.: KINE-001CIP5 :

This letter is in response to the Second Petition under 37 C.F.R. 1.144 filed on 7 August 2007 to requests reconsideration of the first petition decision mailed 6 June 2007. It is noted that applicants filed a Notice Of Appeal on 01 August 2006, prior to the filing of the first petition on 21 December 2006.

37 CFR 1.144 states in part, with emphasis added: "... Petition may be deferred until after final action on or allowance of claims to the invention elected, **but must be filed not later than appeal.....**" (i.e., filing of the Notice of Appeal.)

Accordingly, because the first petition was filed after the Notice of Appeal, the petition filed is **DISMISSED** as untimely.

The application will be forwarded to the Examiner to consider the Appeal Brief filed 21 December 2006.

Should there be any questions regarding this decision, please Quality Assurance Specialist/Program Manager Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

Bruce Kisliuk
Director, Technology Center 1600



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

**ROBERT P. CROSS
 46 BAKER STREET
 PROVIDENCE RI 02905**

COPY MAILED

NOV 09 2009

OFFICE OF PETITIONS

In re Patent No. 6,936,968	:	
Issue Date: August 30, 2005	:	
Application No. 09/998,274	:	DECISION ON PETITION
Filed: November 30, 2001	:	
Attorney Docket No. MUL-0005	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 1, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 31, 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.

Additionally, the request for change of correspondence address has been accepted. While a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
 Petitions Examiner
 Office of Petitions

cc: Peter R. Hagerty
 1180 Peachtree Street, Suite 2050
 Atlanta, Georgia 30309



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JAN 29 2004 2004

Mailed: _____

rvk
Paper Number: 8

In re application of :
Karl-Friedrich Muck et al : DECISION ON
Serial No. 09/998,276 : PETITION
Filed: November 30, 2001 :
For: PROCESS FOR THE PREPARATION OF THERMALLY STABLE
POLYOXYMETHYLENE COPOLYMERS :

This is a response to the COMMUNICATION REGARDING NOTICE OF ABANDONMENT, filed October 14, 2003. The request asks that the abandonment, as set forth in the Notice of Abandonment of October 03, 2003, for failure to timely file a proper response to the Office letter dated January 17, 2003 be withdrawn. The requester asserts that applicants timely filed a proper response /petition for one month extension to the Office letter dated January 17, 2003 on March 19, 2003.

DECISION

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

A review of the requester's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicants did indeed file the proper response to the Office letter of January 17, 2003 in a timely manner. The evidence provided includes copies of the Response, original certificate of US Patent 5,994,455, a new declaration and a petition for a one month extension together with a check in the amount of \$110.00, both of which include an executed Certificate of mailing dated March 19, 2003. Also attached is a copy of the USPTO date stamped postcard receipt dated March 24, 2003 confirming receipt of the Response, the original patent certificate, new declaration and petition for extension of time. It is noted that the serial number and filing date on the papers filed March 19, 2003 are incorrect, and they are the



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

serial number and filing date of the original application which became US Patent 5,994, 455. Therefore, the papers filed March 19, 2003 have not been matched with the instant application file.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff for entering the Response/Declaration and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jmstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

CONNOLLY BOVE LODGE & HUTZ LLP
1220 MARKET STREET
P O BOX 2207
WILMINGTON, DE 19899



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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

Mail Date: 07/09/2010

Applicant	: Manolito E. Adan	: DECISION ON REQUEST FOR
Patent Number	: 7656389	: RECALCULATION OF PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/998,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2511** 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.



#6

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

Collier Shannon Scott, PLLC
3050 K Street, N.W., Suite 400
Washington, D.C. 20007

MAILED
JUN 1 2004
Office of the Director
Group 3600

In re application of :
Paul Norris :
Application No. 09/998,332 :
Filed: December 3, 2001 :
For: REPURCHASE AGREEMENT :
LENDING FACILITY :

**DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY**

This is a decision on the request filed on December 10, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as an attorney of record in the above-identified application.

The request is **APPROVED**.

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

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a)

The request filed on December 10, 2003 requested that Patrick J. Coyne be permitted to withdraw as attorney of record. The attorneys still having power in the application are: Richard H. Kjeldgaard (Reg. No. 30,186), David R. Yohannan (Reg. No. 37,480), Katharine I. Matthews (Reg. No. 40,336), John N. Coulby (Reg. No. 43,565), Mark W. Rygiel (Reg. No. 45,871) and Jamie M. Larmann (Reg. No. 48,623).

SUMMARY: Request For Withdrawal of Attorney is **APPROVED** .



Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/vdb: 5/18/04



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RADER, FISHMAN & GRAUER, PLLC (FAN MATTERS)
LION BUILDING
1233 20TH STREET., N.W., SUITE 501
WASHINGTON DC 20036

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JUN 06 2007

In re Application of :
Norris, Paul :
Application No. 09/998,332 :
Filed: December 3, 2001 :
Attorney Docket No. FAN-0027/US :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3600 for further examination on the merits.

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


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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COHEN & GRIGSBY, P.C.
11 STANWIX STREET
15TH FLOOR
PITTSBURGH PA 15222

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MAY 04 2005

OFFICE OF PETITIONS

In re Application of
Huettner
Application No. 09/998,345
Filed: November 30, 2001
Attorney Docket No. 01-282

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

This is a decision on the petition, filed January 27, 2005, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT application filed on November 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 PCT 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 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 the filing of the PCT application within 45 days after the date of filing of such international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 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 4, 2005 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

This application is being forwarded to Technology Center Art Unit 3622.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

LEHNHARDT & ASSOCIATES
20 NASSAU ST.
SUITE 225
PRINCETON NY 08542

COPY MAILED

NOV 09 2004

OFFICE OF PETITIONS

In re Application of :
Irwin Klein et al :
Application No. 09/998,346 : DECISION GRANTING PETITION
Filed: November 30, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 830004-2001.2 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 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 Declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office Notice of January 10, 2002 and May 3, 2002, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1,005 extension of time submitted with the petition on February 5, 2004 was subsequent to the maximum period obtainable for reply, petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

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

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

Karen Ceasy

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



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JUL 22 2008

**LEHNHARDT & ASSOCIATES
20 NASSAU ST.
SUITE 225
PRINCETON NY 08542**

In re Application of :
Irwin Klein et al :
Application No. 09/998,346 : **ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. 830004-2001.2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed August 30, 2005.

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

The petition and the Revocation and Power of Attorney submitted on September 6, 2007, appears not to be signed by a proper party of interest since the chain of title on the 3.73(b), also submitted on September 6, 2007, is not consistent with the recorded assignment records in the USPTO for the above application. A copy of this decision is being mailed to the address on the petition. However, all future correspondence will be mailed to the current address of record absent a proper Power of Attorney/3.73(b).

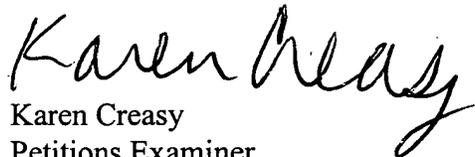
Further correspondence with respect to this matter should be addressed as follows:

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

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

The centralized facsimile number is (571) 273-8300.

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



Karen Creasy
Petitions Examiner
Office of Petitions

cc:

BRUCE CLARKE
11755 WILSHIRE BOULEVARD SUITE 2000
LOS ANGELES, CA 90025



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

RESUSCITATION TECHNOLOGIES, LLC
11755 WILSHIRE BOULEVARD, SUITE 2000
LOS ANGELES CA 90025

MAILED

MAR 31 2009

In re Application of :
Irwin Klein et al :
Application No. 09/998,346 :
Filed: November 30, 2001 :
For: COMPOSITIONS OF STABLE T3 AND :
METHODS OF USE THEREOF :

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed August 30, 2005, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1654 for appropriate action by the Examiner in the normal course of business on the reply received January 22, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions



PATTON BOGGS
P.O. BOX 270930
LOUISVILLE CO 80027

Paper No. 8

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JUL 01 2003

In re Application of
Carlos A. Paz De Araujo et al
Application No. 09/998,364
Filed: November 29, 2001
Attorney Docket No. 13176.206

OFFICE OF PETITIONS
DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 21, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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 November 29, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1775 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.



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

ATTACHMENT: Corrected Filing Receipt



Paper No. 17

**BASF CORPORATION
ANNE GERRY SABOURIN
26701 TELEGRAPH ROAD
SOUTHFIELD, MI 48034-2442**

COPY MAILED

JUL 18 2005

OFFICE OF PETITIONS

In re Application of :
Walter H. Ohrbom et al :
Application No. 09/998,365 : **ON PETITION**
Filed: November 29, 2001 :
Attorney Docket No. IN-5113 :

This is a decision on the petition under 37 CFR 1.181, filed January 22, 2004, which is being treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment of the above-identified application. This is also a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

The petition under 1.137(b) is **DISMISSED** as moot in view of the granting of the petition to withdraw the holding of abandonment under 37 CFR 1.8(b).

The above-identified application was held abandoned for failure to reply in a timely manner to the non-final Office action mailed April 4, 2003, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on December 18, 2003.

The petition of January 22, 2004, asserts that a reply was timely filed to the Office action on June 26, 2003 via facsimile transmission. In support of the assertion of timely filing, petitioner has proffered copies of the previously filed reply; namely, an amendment under 37 CFR 1.111. This correspondence contains a certificate of transmission by facsimile dated June 26, 2003, which would have made the reply timely if received in the U.S. Patent and Trademark Office (USPTO). The petition is also accompanied by a "TX Result Report," which discloses that on June 26, 2003, at 9:11, 16 pages were received at facsimile number 703-305-7718, the same number provided in the Office action of April 4, 2003.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing 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 evidence submitted is sufficient to satisfy the conditions of 37 CFR 1.8(b) to withdraw the holding of abandonment in this application. Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

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



Frances Hicks
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT COUNSEL, MS/2061
LEGAL AFFAIRS DEPARTMENT
APPLIED MATERIALS, INC.
P O BOX 450A
SANTA CLARA, CA 95052

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NOV 08 2005

OFFICE OF PETITIONS

In re Application of :
Young Joseph Paik :
Application No. 09/998,384 : DECISION GRANTING PETITION
Filed: November 30, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 5916/FET/FET/DV :

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

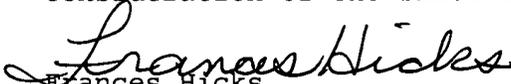
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 12, 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 2823 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 or the amount 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).



(Paper No. 9)

GENERAL ELECTRIC COMPANY
ANDREW C HESS
GE AIRCRAFT ENGINES
ONE NEUMANN WAY M/D H17
CINCINNATI OH 45215-6301

APR 25 2005

In re Application of:	:	
Granitz et al.	:	DECISION ON PETITION
Serial No.: 09/998,432	:	TO WITHDRAW HOLDING
Filed: November 29, 2001	:	OF ABANDONMENT
Attorney Docket No.: 13DV14003	:	

This is a decision on the petition filed on November 7, 2003 to withdraw the holding of abandonment of the above-identified application. The petition has been treated as a petition under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on November 22, 2002. A Notice of Abandonment was mailed on August 13, 2003.

Petitioner asserts that on December 23, 2002, a response including an election was timely filed. To support this assertion, petitioner has submitted a copy of the response bearing a certificate of mailing of December 23, 2002 and a statement, which attests on a personal knowledge basis to the previous mailing.

The petition meets the conditions to establish timeliness under 37 C.F.R. § 1.8(b) in that petitioner: (1) informed 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) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status

and is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



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



BRUCE LONDA
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET, 30TH FLOOR
NEW YORK NY 10017

COPY MAILED
FEB 10 2004
OFFICE OF PETITIONS

Applicant: Zettler et al.
Appl. No.: 09/998,446
Filing Date: November 30, 2002
Title: METHOD FOR MEASURING CHARACTERISTICS, ESPECIALLY THE
TEMPERATURE OF A MULTI-LAYER MATERIAL WHILE THE LAYERS ARE BEING
BUILT UP
Attorney Docket No.: 101215-75
Pub. No.: US 2002/0113971 A1
Pub. Date: August 22, 2002

This is in response to the request for correction of patent application publication under
37 CFR 1.221(b), which was filed on October 22, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the patent application
publication contains a typographical error on the front page of the publication as the Assignee's
name "LayTec Gesellschaft fur in-situ und nano-Sensorik mbH" is misspelled as "LayTec
Gesellschaft fur in-situ und nano-Sensork mbH".

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."
**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 request for corrected publication received on October 22, 2003, was not timely filed under
37 CFR 1.221(b).

If the corrected publication request was timely filed, the error in the Assignee name on the first
page of the publication would not have been considered a material error, as required by 37 CFR
1.221(b). The instant request identifies a minor typographical error in the Assignee name wherein
"Sensorik" is misprinted as "Sensork", which is not a material mistake because the technical
disclosure and the claims are understandable. 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.

Applicant's request for a corrected patent application publication on October 22, 2003, may
constitute a "failure to engage in reasonable efforts to conclude processing or examination of the

¹Changes 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.” See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

To avoid this type of problem in the future, applicant’s representative should make request a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

Applicant can find assignment information on the USPTO website at:
<http://assignments.uspto.gov/assignments/q?db=pat>

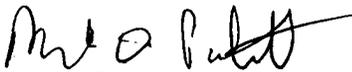
The applicant is advised that a “request for republication of an application previously published” may be filed under 37 CFR 1.221(a). Such a request for republication “must include a copy of the application in compliance with the Office’s electronic filing system requirements and be accompanied by the 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

The application will be examined 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

Enclosure: Corrected Filing Receipt
 Copy of Assignment information on the USPTO website.



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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KODA & ANDROLIA
2029 CENTURY PARK EAST, SUITE 1140
LOS ANGELES, CA 90067-2983

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Satoru Shibuya :
Application No. 09/998,468 :
Filed: November 29, 2001 :
Attorney Docket No. 41A 3159 :

ON PETITION

This is a decision on the petition filed February 14, 2005, which is being treated as a petition under 37 CFR 1.313, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

Petitioner requests that the application be withdrawn from issue or "deferred." The issue fee was paid in this application on February 15, 2005 (certificate of mailing February 10, 2005).

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

37 CFR 1.313(c) clearly states that an application will not be withdrawn from issue on petition except for the reasons enumerated. The circumstances of the above-identified application do not fall within any of the exceptions.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3210.

The matter is being referred to the Office of Patent Publication.



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



KODA & ANDROLIA
2029 CENTURY PARK EAST, SUITE 1140
LOS ANGELES, CA 90067-2983

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APR 13 2005

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Satoru Shibuya :
Application No. 09/998,468 :
Filed: November 29, 2001 :
Attorney Docket No. 41A3159 :

CORRECTED DECISION

This is a decision on the Petition to Defer Issue, filed February 14, 2005.

The petition is **DISMISSED as moot**.

Since this petition is dismissed as moot, the petition fee of \$130 is being credited to Deposit Account No. 11-1445 as authorized.

The decision mailed March 8, 2005 is hereby vacated as of the mail date of this decision.

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


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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

KODA & ANDROLIA
SUITE 1140
2029 CENTURY PARK EAST
LOS ANGELES, CA 90067-2983

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APR 20 2005

In re Application of :
Satoru Shibuya :
Application No. 09/998,468 :
Filed: November 29, 2001 :
Patent No. 6,873,712 :
Issue Date: March 29, 2005 :
Attorney Docket No. 41A 3159 :

OFFICE OF PETITIONS
:DECISION ON PETITION
:UNDER 37 CFR 1.55(a)(2)

This is a decision on the petition under 37 CFR 1.55(a)(2), filed March 15, 2005, for entry of priority papers submitted after the date the issue fee was paid.

The petition is 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.

The patent which issued on this case contained a reference to the foreign Japanese priority documents. Therefore, no further action is required herein.

Any questions concerning this decision on petition should be directed to the undersigned at (571) 272-3218.

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



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.
09/998,489	11/30/2001	Matt Hayek	CS11336	6375

20280 7590 05/26/2006
MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE, IL 60048-5343

EXAMINER

DANIEL JR, WILLIE J

ART UNIT PAPER NUMBER

2617

DATE MAILED: 05/26/2006

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



MOTOROLA INC
600 NORTH US HIGHWAY 45
ROOM AS437
LIBERTYVILLE IL 60048-5343

In re Application of:
HAYEK, et al.
Application Serial No.: 09/998,489
Filed: November 30, 2001
For: RF RECEIVERS AND METHODS

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed February 2, 2006 for supervisory review of the instant application. Petitioner argues that the response filed February 7, 2005 should be entered and prosecution be re-opened.

PERTINENT BACKGROUND INFORMATION

On September 25, 2003, a non-final Office action was mailed rejecting claims 11 and 13-25 under 35 USC 103.

On December 23, 2003, a timely response was filed by applicant arguing that the rejections were improper. Applicant specifically argued, for example, that the rejection of claims 11, 13-14, 18 and 24 under 35 USC 103 as being unpatentable over Atkinson was improper inasmuch as Atkinson failed to specifically disclose or teach specific limitations related to "... a voltage controlled oscillator having a frequency outside a bandwidth of received signal harmonics" as recited in claim 11.

On May 18, 2004 a Final Office action was mailed repeating the rejection of claims 11 and 13-25 under 35 USC 103.

On June 24, 2004, applicant filed an After Final response again arguing that the prior art of record failed disclose or teach specific claim limitations.

On August 18, 2004, a Notice of Appeal and Appeal Brief were timely filed.

On September 7, 2004, the examiner mailed an Advisory Action stating that the request for reconsideration has been considered but is not persuasive.

On January 10, 2005, an Examiner's Answer was mailed. The Examiner's Answer cited a new piece of prior art, "Mouly, et al., "The GSM System for Mobile Communications", Cell & Sys., 1992, pp. 217-218." Furthermore, under "Grounds of Rejection", the examiner provided a note

in the Examiner's Answer which states "In response to Appellant's challenge to the Official Notice rejection of claims 11 and 22, the added reference of Mouly is provided as evidence to support the rejection." The Examiner's Answer then provided a new grounds of rejection wherein claims 11, 23-14, 18 and 24 are rejected under 35 USC 103 as being unpatentable over Atkinson in view of the newly cited reference Mouly, et al.

On February 7, 2005, Appellant filed a response under 37 CFR 1.111 wherein the response included an amendment to claims 11, 13, 14, 16, and 22; cancelled claims 15 and 23; and added new claims 26 and 27. Furthermore, the response included a request to re-open prosecution under 37 CFR 41.39 in light of the new grounds of rejection.

On July 7, 2005, the application was remanded from the Board of Appeals and Interferences for consideration of the response filed February 7, 2005.

On January 13, 2006, an Advisory Action After the Filing of an Appeal Brief was mailed, stating that the amendment filed February 7, 2005 will not be entered because it is not limited to canceling claims or rewriting dependent claims into independent form.

On February 2, 2006, petitioner filed the instant petition under 37 CFR 1.181. Petitioner argues that the response filed February 7, 2005 should be entered and prosecution re-opened inasmuch as examiner issued a new grounds of rejection by citing new reference (Mouly) in the Examiner's Answer mailed January 10, 2005.

DECISION

MPEP 1207.03, part I, sets forth requirements for setting forth a new grounds of rejection in an Examiner's Answer as follows:

- Any new ground of rejection made by an examiner in an answer must be:
- (A) approved by a Technology Center (TC) Director or designee; and
 - (B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer (see MPEP § 1207.02). The examiner may use form paragraph 12.154.04.
- The examiner's answer must provide appellant a two-month time period for reply. The examiner may use form paragraph 12.179.01 to notify appellant of the period for reply and to include the approval of the TC Director or designee. In response to an examiner's answer that contains a new ground of rejection, appellant must either file:
- (A) a reply in compliance with 37 CFR 1.111 to request that prosecution be reopened; or
 - (B) a reply brief that addresses each new ground of rejection in compliance with 37 CFR 41.37(c)(1)(vii) to maintain the appeal.

A review of the file finds that the examiner failed to obtain approval of the Technology Center Director to make the new grounds of rejection in the Examiner's Answer. Furthermore, the appellant did file a timely reply in compliance with 37 CFR 1.111 and did request that prosecution be re-opened.

Inasmuch as it has been determined that the new grounds of rejection in the Examiner's Answer were improper, petitioner's request to have the February 7, 2005 response entered and for prosecution to be re-opened, is **Granted**.

The application file is being forwarded to the examiner for consideration of the February 7, 2005 amendment and reply, and for new and appropriate action in due course.



Andrew Faile
Director
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/25/07

Paper No.: _____

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/998517 Patent No: 723/596 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.

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

- Approved All changes apply.
- Approved In Part Specify below which changes do not apply.
- Denied State the reasons for denial below.

Comments: Claim 186 - after "the plurality of cells" is comma, not semicolon.
The rest of the claim is okay.

Claim 155 (also 156) - the replaced part is not correct. It should be:
-- claims 1-5, 8-31, 33-36, 40-41, 52, 55, 60, 77-78, 65-66, 81-85
95-101, 111, 116-129, 137-138, 140-144, 146, 148-154 --

[Signature]
SPE

2178
Art Unit



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Director's Office
Office of Patent Publication

RATNER & PRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

In re Application of :
Noriyoshi Nishiyama, et al. :
Application No. 09/998,534 : **DECISION ON PETITION**
Filed: November 28, 2001 :
Attorney Docket No. MAT-7941US1 :

This is a decision on the Petition Under 37 CFR § 1.181(A), received in the United States Patent and Trademark Office (USPTO) on February 23, 2004.

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 for Withdrawal of Holding of Abandonment."

The application was held abandoned for failure to timely file new formal drawings as required in the Notice of Allowability. Accordingly, the Notice of Abandonment was mailed February 10, 2004.

Petitioner states that on May 16, 2003 Applicants file the required corrected drawings. Petitioner has submitted a copy of the previously filed drawing and the return post card receipt, which acknowledges receipt of one (1) page of Drawing(s) on May 20, 2003, as evidenced by the "Office Date" stamp receipt thereon.

Applicant, is advised, that where a requirement is made and no petition is filed within the period set forth in 37 CFR § 1.181(f) traversing the requirement—in this situation for corrected drawings—made in the Notice of Allowability, petitioner is assumed to have acquiesced to the requirement. Therefore, this application became abandoned for failure to timely file corrected formal drawings or to file a grantable petition traversing the requirement for formal drawings.

The record fails to disclose that petitioner responded in any manner to this notice. Accordingly, this application is properly abandoned for failure to file corrected drawings.

Should applicant be confronted with this situation in the future, applicant may timely reply in writing (see 37 CFR § 1.2) and traverse such a requirement much as was done in the petition. Applicant has the option to contact the examiner, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement.

Petitioner should seek relief by the filing a Petition to Revive An Abandoned Application under 37 CFR § 1.137.

■ Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application must be:

- (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;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or further correspondence with respect to the petition under 1.137 should be addressed as follows:

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

Telephone inquires relating to this decision may be directed to the undersigned at 703-305-8380.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications



UNITED STATES PATENT AND TRADEMARK OFFICE

Office

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AUG 23 2005

Director's Office
Office of Patent Publication

RATNER & PRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

In re Application of :
Noriyoshi Nishiyama, et al. :
Application No. 09/998,534 :
Filed: November 28, 2001 :
Attorney Docket No. MAT-7941US1 :

DECISION ON RECONSIDERATION

This is a decision on the Request For Reconsideration Of Decision On Petition, received in the United States Patent and Trademark Office (USPTO) on December 20, 2004.

The request is **DENIED**.

The application was held abandoned for failure to timely file corrected drawings as required in the Notice of Allowability mailed August 11, 2003.

The applicant's Petition Under 37 CFR 1.181(A) was dismissed due to the applicant's failure to respond the Notice of Allowability, which required submission of corrected drawings.

Petitioner states that "As set forth in the Reasons For Allowance mailed on August 11, 2003, "The corrected or substitute drawings were received on 20 May 2003. These drawings are approved." Thus, the record was clear that corrected drawings were not required." Further, that "the Examiner understood that corrected drawings were not required (...enclosed Interview Summary).

As indicated in the Decision On Petition mailed November 9, 2004, the applicant should have responded to the Notice of Allowability by a timely reply in writing (see 37 CFR § 1.2) to traverse such a requirement or contacted the examiner, requesting that he or she, in an Examiner Interview Summary Form or a Supplemental Notice of Allowability, which must be mailed prior to the expiration of the period for reply, upon reconsideration, withdraw any outstanding requirement. The decision by the undersigned to dismiss the petition was correct.

However, since the Examiner has now in the Interview Summary mailed November 22, 2004, acknowledged a Technology Center error in that the Notice of Allowance mailed 11 August 2003 was incorrectly marked, the petitioner should request that the Examiner withdrawn the abandonment or file the Petition For Revival Under 37 CFR 1.137.

Telephone inquires relating to the filing of the Petition under 37 CFR 1.137 should be directed to the Office of Petitions at 703-305-9282 or further correspondence with respect to the petition under 1.137 should be addressed as follows:

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

Telephone inquires relating to this decision may be directed to the undersigned at 703-308-9250 Ext. 137.



Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications



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OFFICE OF PETITIONS

In re Application of :
Nishiyama et al. :
Application No. 09/998,534 :
Filed: November 28, 2001 :
Attorney Docket No. MAT-7941US1 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Formal Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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


Liana Chase
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

NORTEL NETWORKS LIMITED
P O BOX 3511, STATION C
OTTAWA, ONTARIO, CANADA K1Y 4H7

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Arthur T.G. Fuller et al :
Application No. 09/998,564 : DECISION GRANTING PETITION
Filed: November 16, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7000-110 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2005, 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 May 24, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the \$1,400 issue fee and \$300 publication fee; (2) the petition fee of \$1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.


Frances Hicks

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



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

Delay in Prosecution Held Unavoidable (35 U.S.C. 133),
Petition Granted _____

Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),
Petition Granted _____

Petition Granted to accept color photos

Petition Denied _____

Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

**BRUCE R. CAMPPELL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600**



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 29 2001

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of :
Johann Eibl :
Serial No.: 09/998,575 : PETITION DECISION
Filed: November 16, 2001 :
Attorney Docket No.: A34720-PCT-USA-A :

This is in response to the petition under 37 CFR § 1.181 and 37 CFR § 1.144, filed July 12, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed on November 16, 2001, and contained claims 1-130.

In a first Office action, mailed September 29, 2003, the examiner set forth a restriction requirement under 35 U.S.C. 121, as follows:

- Group I, claims 1-104, drawn to a topical medicament for stopping bleeding.
- Group II, claims 105-106, drawn to a method of making fibrinogen solution.
- Group III, claims 107-108, drawn to a fibrinogen solution with specific purity properties.
- Group IV, claim 109, drawn to a process of obtaining a pathogen-free active substance.
- Group V, claim 110, drawn to a method of binding an active agent to a biological matrix.
- Group VI, claims 111-112, 114-115, drawn to a first process of making a fibrin gel with specific hydration with a drying agent.
- Group VII, claims 113, 116, drawn to a second process of making a fibrin gel with specific hydration with pressure.
- Group VIII, claims 117-118, drawn to a third process of making a fibrin gel with metallic ions.
- Group IX, claims 119-120, drawn to a lyophilized fibrin gel with plasticizer.
- Group X, claim 121, drawn to a method of making a viscous fibrin gel.
- Group XI, claim 122, drawn to a method of determining adherence to a fibrin clot.
- Group XII, claims 124-130, drawn to a method of treating wounds with a medicament.

The examiner reasoned that the inventions of Group I and group XII were related as product and process of use, and the product had use as a glue. The examiner also reasoned that Inventions I and II, IV-VII, and IX-XI were unrelated as Group I is a composition whereas Groups II, IV-VII, and IX-XI are drawn to various methods. Finally, the examiner reasoned that Inventions I, III, and VI were unrelated as they correspond to distinctly different compositions; namely, a medicament, a solution and a lyophilized gel, respectively.

The examiner also required a species election based on the fact that claims 1-104 were generic to a plurality of patentably distinct species of active agent groups, and a plurality of species within each active agent group comprising:

- 1) structural proteins-for species, see claims 2-4
- 2) cell stimulating factors-for species, see claims 5-8
- 3) enzymes and enzyme inhibitors-for species, see claims 9-16
- 4) antiadherent, antioxidant, and antimicrobials-for species, see claims 17-32
- 5) blood coagulation zymogens-for species, see claims 33-64
- 6) particulate cell elements-for species, see claims 65-95

Applicant was also required to (A) elect a single disclosed species of active agent Group 1-6, and (B) within that elected active agent Group, to further elect a specific specie of said active agent group, if applicant elected Group I.

On January 2, 2004, applicant filed a Response and elected Group I, claims 1-104, drawn to a topical medicament, without traverse. Applicant also elected species (A) structural proteins, and elected species (B) allogenic collagen, with traverse. Applicant argues that the species election requirement does not relate to a species of element (i)-(iv), but instead to a further addition (v) to the generic composition of claim 1.

The examiner mailed a non-final Office action to applicant on March 12, 2004, in which the examiner acknowledged applicant's election without traverse of group I, claims 1-104 and acknowledged the election with traverse of allogenic collagens as the structural protein. The examiner repeated the species election requirement and reasoned that the additional components were active ingredients that would materially affect the basic and novel characteristics of the claimed invention, and that it was proper to consider that searching each and every one of the added active ingredients could entail burden due to the fact that each of these ingredients requires a separate search as these active ingredients are not classified together or recognized in the art as being coextensive.

Applicant replied on July 12, 2004 by filing this petition. Applicant also filed a full reply to the Office action on July 12, 2004.

DISCUSSION

MPEP 818.03(c) and 37 CFR § 1.144 state that after a final requirement for restriction, the applicant may petition the Commissioner to review the requirement. In this case, the requirement for restriction has not been made final.

Therefore, applicant's petition is DISMISSED as premature.

It is pointed out to applicant that an election of species is designed to provide a starting point for a search. See MPEP 803.02 for a complete explanation of restriction practice for Markush-type claims.

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 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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ALEXANDRIA, VA 22303-1450
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Paper No. 10

Kenyon & Kenyon
One Broadway
New York, NY 10004

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NOV 23 2004

OFFICE OF PETITIONS

In re Application of :
Marcel F. C. Schemmann, et al. :
Application No. 09/998,578 :
Filed: November 16, 2001 :
Attorney Docket No. 11890/3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center 2600.

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



EDWARD W BULCHIS
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101-4010

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of :
Leland R. Nevill :
Application No. 09/998,594 : **ON PETITION**
Filed: November 16, 2001 :
Attorney Docket No. 500060.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

The application matter is being referred to Technology Center 2800, Art Unit 2876 for further processing.

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



Paper No. 18

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

COPY MAILED

AUG 13 2003

OFFICE OF PETITIONS

In re Application of :
Kalnitsky & Lin :
Application No.: 09/998,595 :
Filed: November 16, 2001 :
Attorney Docket No.: 93-C-032RE(1678-42) :
For: ENHANCED PLANARIZATION :
TECHNIQUE FOR AN INTEGRATED CIRCUIT :

**DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)**

This is a decision on the petition under 37 CFR 1.47(a), filed July 30, 2002 (certificate of mailing date July 22, 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 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 above-identified application was filed on November 16, 2001 without an executed oath or declaration. On February 21, 2002, a Notice to File Missing Parts of Reissue Application was mailed. This Notice required petitioner to file an executed declaration, a statement from the assignee establishing ownership of the reissue application, filing fees, and a surcharge within two months of the February 21, 2002 mail date of the Notice.

In response, petitioner filed a request for a three month extension of time and required fee, filing fees, the surcharge, a statement of ownership from the assignee, the instant petition and petition fee on July 30, 2002 (certificate of mailing date July 22, 2002). A statement of facts authored by Attorney Bryan A. Santarelli and a declaration of Mary L. Hiner accompanies the petition. Ms. Hiner, patent assistant to the assignee, states that she called non-signing inventor Lin's last known phone number and reached who she believed to be Mr. Lin's wife. Mr. Lin's wife gave her a number for Mr. Lin's cell phone. She then called Mr. Lin's cell phone number and spoke to Mr. Lin. Mr. Lin stated requested that Ms. Hiner call later. Ms. Hiner did so and left a message for Mr. Lin. Mr. Lin didn't return the call. Mr. Lin did not return another phone message left by Ms. Hiner. In addition, Mr. Lin's last known e-mail address is not functional.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the non-signing inventor, Yih-Shung Lin, cannot be located.

A showing of **diligence** is critical in obtaining Rule 47 status when an inventor cannot be located or reached. Unanswered phone messages does not meet the required level of diligence that must be shown in order to obtain Rule 47 status.

Petitioner should engage in further efforts to locate Mr. Lin. The following is a list of evidentiary sources that are commonly relied upon to prove inability to locate an inventor: searches of Internet databases; inquiries of local telephone directories; inquiries of any extant national or regional registries, telegrams; and documented inquiries of last known employers. Every listed type of search need not be done. However, a diligent effort to find the inventor must be made. Petitioner may wish to contact Mrs. Lin again in order to obtain a home address for Mr. Lin.

Documentary evidence that supports a finding that the non-signing inventor could not be found or reached should be made part of any affidavits or declarations that fully describe the exact facts which are relied on to establish that a diligent effort was made to locate the non-signing inventor. Printed computer records would suffice.

The affidavit or declaration of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay will not normally be accepted. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of each inventor must be included on the oath or declaration. There is no citizenship listed for Mr. Lin. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived. Mr. Kalnitsky must execute another declaration that lists Mr. Lin's full information, including citizenship. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

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

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450
 Attn: E. Shirene Willis

By facsimile: (703) 308-6916
 Attn: Office of Petitions -- E. Shirene Willis

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: BRYAN A. SANTARELLI
GRAYBEAL JACKSON HALEY LLP
155-108TH AVENUE, N.E., SUITE 350
BELLEVUE, WA 98004-5901



Paper No. 11

LISA K. JORGENSON
STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

COPY MAILED
DEC 30 2003
OFFICE OF PETITIONS

In re Application of :
Kalnitsky & Lin :
Application No.: 09/998,595 :
Filed: November 16, 2001 :
Attorney Docket No.: 93-C-032RE(1678-42) :
For: ENHANCED PLANARIZATION :
TECHNIQUE FOR AN INTEGRATED CIRCUIT :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 19, 2003 (certificate of mailing date December 15, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Yih-Shung Lin, cannot be located. Specifically, the declaration/statement of facts of Patent Assistant Kelly J. Pederson establishes that the inventor could not be located despite numerous Internet searches of telephone directories of several countries. Inquiries of Lin's whereabouts directed to co-inventor Kalnitsky were fruitless. A package containing the reissue application and a declaration sent to Mr. Lin's last known address was returned as undeliverable. Attempts to reach Mr. Lin by telephone using his last known telephone number were unsuccessful. Petitioner has shown that Mr. Lin cannot be located. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.


E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of :
Marc A. Unger et al. :
Application No. 09/998,600 :
Filed: November 16, 2001 :
Attorney Docket No. 020174-003310US :

ON PETITION

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 29, 2005.

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.33d 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 and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/25/07

Paper No.:

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/998601 Patent No.: 7139843B2

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

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

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

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:
Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: None of the modifications change the scope of the claims (grammatical corrections, etc.). The 2 references have been reviewed already as well.

KWANG BIN YAO
SUPERVISORY PATENT EXAMINER

[Signature]
SPE

2616
Art Unit



01162006

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAR 0 1 2006

In re Application of	:	
PAN et al.	:	DECISION ON PETITION
Application No. 09/998,606	:	
Filed: November 30, 2001	:	
Attorney Docket No. TI-31192	:	

This is a decision on the petition filed April 12, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A non-final Office action was mailed July 28, 2003, setting a three-month shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed February 27, 2004.

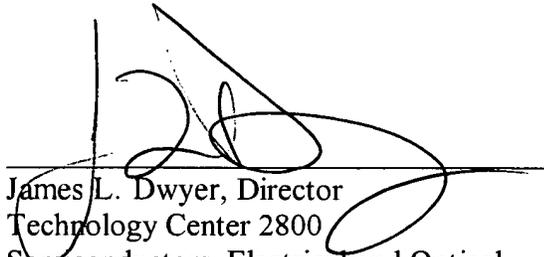
Petitioner asserts that an Amendment and Request for Extension of Time were timely filed by facsimile transmission on January 27, 2004. To support the assertion, petitioner submitted 1) a copy of the response entitled "Request for Reconsideration under 37 C.F.R. § 1.111," 2) a copy of the Certificate of Transmission under 37 C.F.R. § 1.8(a) dated January 27, 2004, 3) a copy of the Auto-Reply Facsimile Transmission Report from the USPTO and 4) a copy of the sending unit's report confirming successful transmission of seven pages.

The review of the application file reveals that the response entitled "Request for Reconsideration under 37 CFR 1.111" was received and matched with the file. However, the response was not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response to the July 28, 2003 Office action. From there, it will be returned to the examiner for further prosecution.

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



James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



PERRY HOFFMAN AND ASSOCIATES, P.C.
P.O. BOX 1649
DEERFIELD, IL 60015

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of :
John Merrow DAVIES et al. :
Application No. 09/998,613 : DECISION ON PETITION
Filed: November 30, 2001 :
Attorney Docket No. 21-019 ITW 20577 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

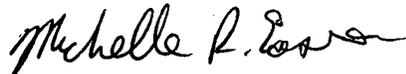
This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed August 09, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 12, 2006. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected appeal brief; (2) the petition fee of 1,500; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Non-Compliance of August 09, 2006 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed corrected appeal brief.



Michelle R. Eason
Paralegal Specialist
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

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn PA 19312-1183

COPY MAILED

JUL 02 2009

OFFICE OF PETITIONS

In re Application of :
Davies, et al. :
Application No. 09/998,613 : ON APPLICATION FOR
Filed: November 30, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 133960.00101 :
:

This is in response to the "Request for Consideration of Patent Term Adjustment Pursuant to 37 CFR § 1.702" filed June 9, 2009. Applicant requests that the determination of patent term adjustment be corrected from seven hundred fifty-three days (753) days to at least two thousand five hundred and three (2,503) days assuming that the patent issues on September 15, 2009. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

The request is DISMISSED.

Applicants are advised that § 1.705(b) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the notice of allowance. See § 1.702-1.705. Moreover, § 1.705(b) provides that:

An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance. An application for patent term adjustment under this section must be accompanied by:

- (1) The fee set forth in § 1.18(e) ...

The instant application for patent term adjustment was filed after the mailing of the notice of allowance and with payment of the issue fee. However, neither the fee under § 1.18(e) nor a

general authorization from an authorized user to charge any required fees, accompanied the application for patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e).

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of 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 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 that patent and accompanied by the \$200.00 fee set forth in 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision and directed to go forward with processing of this application into a patent.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

/Christina Donnell/

Christina Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 27 2010

OFFICE OF PETITIONS

GREENBERG TRAUERIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON MA 02110

In re Patent No. 7,571,166 : DECISION ON REQUEST
Davies, et al. : FOR
Issue Date: August 4, 2009 : RECONSIDERATION OF
Application No. 09/998,613 : PATENT TERM ADJUSTMENT
Filed: November 30, 2001 : and
Atty Docket No. 087367-013001 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 5, 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 two thousand, four hundred and fifty-eight(2,458) 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 nine hundred and forty-nine (949) days 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 December 1, 2004, and ends on June 14, 2005, the day before the RCE was filed, and is 196 (not 1709) days. See 35 U.S.C. 154(b)(1)(B)(i).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred and forty-nine (949)** days.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,571,166 B1

DATED : Aug. 4, 2009

INVENTOR(S) : Davies, 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 (753) days

Delete the phrase "by 753 days" and insert – by 949 days--



JUL 28 2004

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

AKZO NOBEL PHARMA PATENT DEPARTMENT
21960 INTERVET LANE
P.O. BOX 318
MILLSBORO, DE 19966

In re Application of:	:	
Conn et al.	:	
Serial No.: 09/998,619	:	DECISION ON PETITION TO
Filed: November 30, 2001	:	WITHDRAW THE HOLDING
Attorney Docket No.: 3298 1H309US2	:	OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181 filed on May 27, 2004, requesting withdrawal of the holding of abandonment based on the timely payment of the Issue Fee.

A review of the file history shows that the examiner mailed a Notice of Allowance to applicants on December 17, 2003. On May 7, 2004 a notice of abandonment was mailed for failure to pay the issue fee.

Applicants state that authorization to timely pay the issue fee was provided on March 1, 2004 by Applicants' attorney. Applicants have submitted the fee transmittal page, fax cover page and proof of fax page as evidence of such authorization. In view of this evidence, applicants are considered to have paid the Issue Fee in a timely manner.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and is being forward to the Office of Publications for allowance.

The appropriate fees will be charged to deposit account 02-2334.

Patent term extensions have to be applied for after the patent issues.

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.

Bruce Kisliuk 
Director, Technology Center 1600



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

COPY MAILED

APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Takahashi, et al. : DECISION ON PETITION
Application No. 09/998,621 :
Filed: November 30, 2001 :
Docket No.: 3404/0K075 :

This is a decision on the petition, filed March 24, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from 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 application became abandoned September 7, 2005 for failure to timely submit a proper reply to the non-final Office action mailed June 6, 2005. The non-final Office action set a three (3) month statutory period for reply. Notice of Abandonment was mailed February 27, 2006.

Petitioners allege non-receipt of the Office communication mailed June 6, 2005.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office

communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioners have provided a copy of the docket record where the Office communication would have been entered had it been received along with a statement from practitioner and practitioners' Records Department Manager that a search of the docket record and file jacket indicated that the Office communication was not received.

Petitioners arguments have been carefully considered by are not found convincing.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), petitioners are required to establish that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (See, MPEP 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing (specifically, the correspondence address as of June 6, 2005, the date of mailing of the Office action was: Peter C. Schechter, Darby & Darby P.C., 805 Third Avenue, New York, New York 10022). Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office as a change of correspondence address/customer number update was entered July 5, 2005, subsequent to the date of mailing of the Office action (Customer Number 7278 was updated July 5, 2005 to reflect: Darby & Darby P.C., P.O. Box 5257, New York, New York 10150-5257).

ALTERNATE VENUE

Petitioners are strongly urged to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR

1.137(b) must be accompanied by the required petition fee and reply.

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

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

By mail:

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

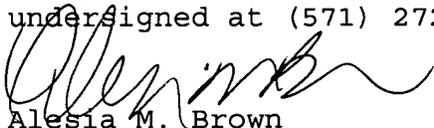
By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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



Alesia M. Brown
Petitions Attorney
Office of Petitions



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SEP 28 2006

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

In re Application of :
Takahashi, et al. : DECISION ON PETITION
Application No. 09/998,621 :
Filed: November 30, 2001 :
Docket No.: 3404/0K075 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed May 9, 2006.

The petition is hereby **GRANTED**.

The application was held abandoned September 7, 2005 for failure to timely submit a proper reply to the non-final Office action mailed June 6, 2005. The non-final Office action set a three (3) month statutory period for reply. Notice of Abandonment was mailed February 27, 2006. A petition under 37 CFR 1.181 was filed March 24, 2006 and dismissed April 27, 2006.

Petitioners allege non-receipt of the Office communication mailed June 6, 2005.

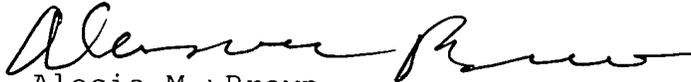
In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the non-final Office action would have been entered had it been received along with a statement from petitioner that a search of the docket record and file jacket indicated that the non-final Office action was not received.

In view of the evidence presented, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff of Group Art Unit 3727 for mailing of new Notices. The time period for response will be set to run from the date the new Notices are mailed.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to

PATENT
Attorney Docket No.: 021044-000600US 8/3/02

Assistant Commissioner for Patents
Washington, D.C. 20231

On June 21, 2002
TOWNSEND and TOWNSEND and CREW LLP
By [Signature]

RECEIVED
JUL 08 2002
TECH CENTER 1600/2900

O I P E
JUN 27 2002
PATENT & TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Masuda et al.

Application No.: 09/998,667

Filed: December 3, 2001

For: TRAC1: MODULATORS OF LYMPHOCYTE ACTIVATION

PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48

COPY OF PAPERS ORIGINALLY FILED

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants petition under 37 C.F.R. § 1.48 to add Congfen Li as an inventor of the above-identified patent application.

As required by 37 C.F.R. § 1.48, the following are submitted herewith:

- (1) Statement from Congfen Li stating that it was through error without deceptive intent that she was not named as an inventor in the above-identified patent application;
- (2) Written consent from the assignee, Rig. Pharmaceuticals, Inc.
- (3) A supplemental declaration signed by Congfen Li.

Please deduct the petition fee, pursuant to 37 C.F.R. § 1.17(i), from Deposit Account No. 20-1430 of the undersigned. Please charge any additional fees or credit overpayment to the above Deposit Account.

Respectfully submitted,



Annette S. Parent
Reg. No. 42,058

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200/Fax: (415) 576-0300

SF 1349050 v1



Paper No. 5

ZAGORIN O'BRIEN & GRAHAM LLP
401 W 15TH STREET
SUITE 870
AUSTIN TX 78701

MAILED

MAY 21 2003

Technology Center 2600

In re Application of :
DAVIS, JOHN :
Application No. 09/998,715 :
Filed: November 30, 2001 :
For: SYSTEM AND METHOD FOR :
COMMUNICATING IPSEC TUNNEL PACKETS :
WITH COMPRESSED INNER HEADERS :

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on May 6, 2003.

A grantable request to withdraw as attorney/agent of record must:

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

Petitioner has not met item (2). The undersigned, Michael P. Noonan, is not of record.

Accordingly, the request is **DISMISSED AS MOOT**.

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: GAMMAGE & BURNHAM
TWO NORTH CENTRAL AVE.
18TH FLOOR
PHOENIX, AZ 85004



UNITED STATES PATENT AND TRADEMARK OFFICE

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

INGRASSIA FISHER & LORENZ PC
7150 E. CAMELBACK, SUITE 325
SOCTTSDALE, AZ 85251

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APR 04 2007

OFFICE OF PETITIONS

In re Application of :
John **DAVIS** :
Application No. 09/998,715 : **DECISION ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. 052-0005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 27, 2006, to revive the above-identified application.

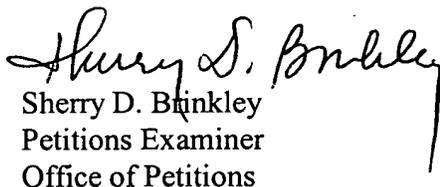
The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed March 7, 2006 . Accordingly, the date of abandonment of this application is June 8, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$700; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

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

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


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 18 2005

CARLOS A. FISHER
ALLERGAN, INC.
T2-7H
2525 DUPONT DRIVE
IRVINE CA 92612

In re Application of :
James A. Burke et al :
Serial No.: 09/998,718 : PETITION DECISION
Filed: November 1, 2001 :
Attorney Docket No.: 17400CIP(HL) :

This is in response to the petition under 37 CFR 1.181, filed October 4, 2004, requesting withdrawal of the finality of the last Office action. The delay in acting on this petition is regretted, however it was only recently brought to the attention of the deciding authority.

BACKGROUND

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on September 23, 2003, setting forth as the only ground of rejection a rejection under 35 U.S.C. 112, first paragraph, for lack of written description of the claimed invention. Applicants replied on December 22, 2003, canceling the non-elected claims, but making no other amendments to the original claims, and addressing the rejection appropriately.

The examiner then mailed a Final Office action to applicants on April 20, 2004, setting forth as the only ground of rejection a rejection under 35 U.S.C. 112, first paragraph, for lack of enablement, not lack of written description. Applicants replied on July 23, 2004, addressing the rejection appropriately, and also arguing that the finality of the Office action was premature as it contained a new ground of rejection not necessitated by applicants' amendments of which there were none.

The examiner mailed an Advisory action to applicants on September 13, 2004, denying entry of applicants' amendment on the basis that it raised new issues, but provided no explanation thereof. Applicants then filed this petition on October 4, 2004, requesting finality of the last Office action be withdrawn as improper. Applicants have since filed a Notice of Appeal.

DISCUSSION

A review of the examiner's actions shows that while the application was rejected under the same section of the statute in each Office action noted above, the basis for the rejection in each action

was different. 35 U.S.C. 112, first paragraph, defines several criteria which applicant must meet in order to satisfy the requirements thereof. Two of these are written description and enablement. These criteria are different and satisfaction of one does not automatically mean satisfaction of the other. Further, inasmuch as applicants did not amend their claims in response to the first Office action the examiner's institution of a new ground of rejection (enablement) in a second Office action and making the action a Final Office action is in direct conflict with M.P.E.P. 706.07(a).

Additionally, the examiner's refusal to enter the amendment after Final Office action without an explanation as to non-entry is contrary to Office policy.

The renewed petition is **GRANTED**. The finality of the Office action mailed April 20, 2004, is **withdrawn**. The amendment filed July 23, 2004, is entered.

The file will be forwarded to the examiner for further action not inconsistent with this decision and will take into consideration the amendment filed July 23, 2004.

The Notice of Appeal is held in abeyance. Applicants may request a refund of the Appeal Fee filed with the Notice of Appeal or, should the application be properly finally rejected reinstate the Appeal by filing a new Notice of Appeal without additional fee.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

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OCT 17 2006

Director's Office
Office of Patent Publication

LOTT & FRIEDLAND, P. A.
ONE EAST BROWARD BLVD.
SUITE 1609
FORT LAUDERDALE, FL 33301

In re Application of :
Rud Istvan, et al. :
Application No. 09/998,733 : **DECISION ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. 07083-1-007200 :

This is a decision on the Petition Under 37 C.F.R. § 1.181 For Withdrawal Of Abandonment Resulting From Correspondence Never Received, received in the United States Patent & Trademark Office (USPTO) on May 18, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee and Publication fee, as required in the Notice of Allowance and Fee(s) Due mailed May 20, 2005. The Notice of Abandonment, mailed on March 20, 2006 indicates, "The submitted fee of \$0 is insufficient. A balance of \$1,700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on August 12, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 50-2725. On August 12, 2006, when an attempt was made by the Accounting Technician in the Office of Initial Patent Examinations (OIPE) to charge the fees, there were insufficient funds in the Deposit Account.

37 CFR 1.25 (a) and (b), which states in part:

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Further inquiries with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 Office of Petitions
 P O Box 1450
 Alexandria, VA 22313-1450

Telephone inquiries concerning this decision matter may be directed to the undersigned at 703-308-9250 ext. 167.


Brenda J. Moore
Quality Operations Assistant
Office of the Director
Office of Patent Publications



UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOTT & FRIEDLAND, P.A.
ONE EAST BROWARD BLVD.
SUITE 1609
FORT LAUDERDALE FL 33301

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Istvan et al. :
Application No. 09/998,733 :
Filed: November 30, 2001 :
Attorney Docket No. 07083-1-007200 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal and payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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


Liana Walsh
Petitions Examiner
Office of Petitions



STEPHANIE A. WARDWELL,
WILLIAMS, MORGAN & AMERSON, P.C.
SUITE 250
7676 HILLMONT
HOUSTON TX 77040

COPY MAILED

AUG 26 2002

OFFICE OF PETITIONS

In re Application of
Yang, et al
Application No. 09/998,773
Filed: 30 November, 2001
Attorney Docket No. 2039.010300

DECISION ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,¹ filed on 12 May and supplemented on 22 August, 2002

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response (with fee) should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

Thereafter there will be no further reconsideration.

Failure to respond within the time set forth above will result in abandonment of the application.

BACKGROUND

The record indicates:

- the application was filed on 30 November, 2001, without a fully executed oath or declaration;

¹ The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(c) The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

- accordingly, a Notice to File Missing Parts of Application was mailed on 25 January, 2002, requiring an executed oath or declaration, and a surcharge for the late filing, all due (absent extension of time) on or before 25 March, 2002;
- Counsel filed on 13 May, 2002, *inter alia*, the surcharge and a request and fee for a two- (2-) month extension of time, and the instant petition (with fee) to prosecute the application with/and the oath or declaration signed by less than all of the inventors on behalf of the non-signing inventors Kevin Cai (Mr. Cai) and Lennard Torres (Mr. Torres);
- the petition recited that the non-signing inventors could not be contacted, but, *inter alia*, appears to recite an incorrect mail address for Mr. Cai and the record demonstrates that the entire application was not sent² to Mr. Cai and Mr. Torres--of which condition Counsel was made aware via telephone on 22 August, 2002 in order that she might evidence that Mr. Cai and Mr. Torres had been presented (or that attempts had been made to present them) with the complete application, yet they refused to sign or cannot be found or reached after diligent effort.

ANALYSIS

Petitioner has failed to establish that the inventors have been presented with the full application and have refused to sign the declaration (the proof of the pertinent events must be made by a statement of someone with first hand knowledge of the events with support of the registered practitioner prosecuting this matter) or cannot be reached.

A copy of the entire application must be sent to the last known address of the non-signing inventors with a request that he/she sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.³

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

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

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

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

² The copies of the transmittal letters clearly indicate that only the oath or declaration was sent, and not the entire application as required by statute and regulation.

³ See: MPEP 409.03(b).

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



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



STEPHANIE A. WARDWELL,
WILLIAMS, MORGAN & AMERSON, P.C.
SUITE 250
7676 HILLMONT
HOUSTON TX 77040

COPY MAILED

NOV 27 2002

OFFICE OF PETITIONS

In re Application of :
Yang, et al : DECISION ON PETITION
Application No. 09/998,773 :
Filed: 30 November, 2001 :
Attorney Docket No. 2039.010300 :

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47,¹ filed on 4 October and supplemented on 21 November, 2002.

Petitioner has shown that, while all other inventors have signed the oath/declaration, the non-signing inventor **Kevin Cai (Mr. Cai) and Lennard Torres (Mr. Torres)** have refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Stephanie A. Wardwell (Reg. No. 48,025) establishes that the non-signing inventors were mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

¹ The regulations at 37 C.F.R. §1.47 provide:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a).**²

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

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

This file is being returned to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



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

² Pursuant to Petitioner's authorization, the petition fee (\$130.00) for this renewed petition is charged to Deposit Account 50-0786 (2039.010300SAW).



LENNARD TORRES
682 CONCORD PL.
PLEASANTON, CA 94566

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NOV 27 2002

OFFICE OF PETITIONS

In re Application of :
Yang, et al : CORRESPONDENCE
Application No. 09/998,773 :
Filed: 30 November, 2001 :
Attorney Docket No. 2039.010300 :

Dear Lennard Torres:

You are named as 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. §1.47,¹ ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of

¹ The regulations at 37 C.F.R. §1.47 provide:
§ 1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s). [47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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.

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 toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence 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

Counsel of Record:
STEPHANIE A. WARDWELL,
WILLIAMS, MORGAN & AMERSON, P.C.
SUITE 250
7676 HILLMONT
HOUSTON TX 77040



Paper No. 18

GOWLING LAFLEUR HENDERSON LLP
COMMERCE COURT WEST, SUITE 4900
TORONTO ON M5L 1J3 CA CANADA

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AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Bowie G. Keefer :
Application No. 09/998,777 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. T8465108US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 3, 2002, which set a shortened statutory period for reply of three(3) months. A two(2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 4, 2003.

Receipt is acknowledged of the Associate Power of Attorney or Agent filed July 22, 2003, with the instant petition.

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

The application file is being forwarded to Technology Center 1700, Art Unit 1724 for processing the Request for Continued Examination under 37 CFR 1.114, filed on July 22, 2003.

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

Sherry D. Brinkley
Petitions Examiner



Paper No. 9

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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AUG 01 2003

OFFICE OF PETITIONS

In re Application of :
Campbell, et al. :
Application No. 09/998,819 : ON PETITION
Filed: November 25, 2001 :
Attorney Docket No. 01-1014 :

This is a decision on the petition to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed May 13, 2003.

The petition is **GRANTED**.

Petitioner states that the instant patent is the subject of a PCT international application filed on October 24, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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 November 6, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request and
Notice of Foreign Filing (2 pages)


UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/998,819	10/25/2001	Edward P. Campbell	01-1014

McDonnell Boehnen Hulbert & Berghoff
 32nd Floor
 300 S. Wacker Drive
 Chicago, IL 60606

CONFIRMATION NO. 5915


OC000000010618751

Date Mailed: 08/01/2003

NOTICE REGARDING RESCISSION OF NONPUBLICATION REQUEST AND NOTICE OF FOREIGN FILING

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the United States Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/06/2003.

If applicant has not "foreign filed," then applicant need take no further action regarding the nonpublication request.

If applicant "foreign filed" the application after filing the above application and before rescinding the nonpublication request and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), Off. Gaz. Pat. Office (July 1, 2003). This document is also posted on the USPTO Internet site at: www.uspto.gov.

If a notice of foreign filing was not filed within 45 days of the date of "foreign filing," then the application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii), and applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

'Note that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing" for purpose of this notice.



Shelley P.M. Fussey
WILLIAMS, MORGAN & AMERSON, P.C.
Suite 250
7676 Hillmont
Houston, TX 77040

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AUG 19 2002

OFFICE OF PETITIONS

In re Application of Thorpe, et al. :
Application No. 09/998,833 :
Filed: November 30, 2001 : DECISION ON PETITION
Attorney Docket No. 4001.002299 :

This is a decision on the "Response to Notice of Omitted Items and Petition to Maintain Filing Date" filed May 9, 2002, and supplemented with paper filed August 13, 2002, including copy of postcard receipt. This petition is properly treated as a petition under 37 C.F.R. §1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of October 30, 2001, with page 154 as a part of the original application disclosure.

Application papers in the above-identified application were filed on November 30, 2001. However, on April 10, 2002, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were thereby notified that the application papers had been accorded a filing date; however, page 154 of the specification appeared to have been omitted.

In response, applicants timely filed the instant petition (and petition fee). Applicants petition to maintain the original filing date on the basis that the allegedly missing page was, in fact, submitted and received by the Office. In support thereof, applicants submitted *inter alia* a copy of their return postcard from the USPTO. Petitioners also submitted a copy of page 154 as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 30, 2001; 2) it specifically identifies the items being filed, including "Specification: 205 pages" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 205 pages of specification, were filed on November 30, 2001.

The application papers already considered received in the Office on November 30, 2001, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt, including specification: 205 pages. Petitioner has shown that pp. 154 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is GRANTED.

Given the basis for granting the petition, petitioner's request to refund the petition fee is granted. The fee will be credited to Deposit Account No. 50-0786, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 30, 2001, using the application papers received in the Office and presently accorded that date; and page 154 of the specification resubmitted on petition filed May 9, 2002;

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Christina Carter Donnell for

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



Intellectual property Law Department
square D Company
1415 South Roselle Road
palatine, IL 60067-7399

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of	:	
William Weizhong Chen and R. Kent Crawford	:	DECISION GRANTING STATUS
Application No.09/998,837	:	UNDER 37 CFR 1.47(A)
Filed: November 15, 2001	:	
Attorney Docket No. SQD-1019US	:	
Title of Invention: Electrical Contactor with	:	
Positive Temperature Coefficient Resistivity	:	
Element	:	
	:	
	:	
	:	

This is in response to the petition under 37 CFR 1.47(a) filed November 15, 2001.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Chen has refused to join in the filing of the above-identified application. Petitioner has provided a statement that the inventor orally refused to execute the application papers.

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

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 application will be forwarded to the Office of Patent Publication for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



William Weizhong Chen
3110 Meadow Glen Street
Marion, Iowa 52302

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AUG 31 2005

In re Application of
William Weizhong Chen and R. Kent Crawford :
Application No. 09/998,837
Filed: November 15, 2001 :
Attorney Docket No. SQD-1019US :
Title of Invention: Electrical Contactor with :
Positive Temperature Coefficient Resistivity :
Element :

LETTER

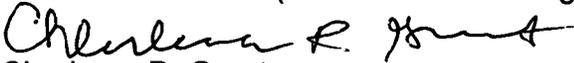
OFFICE OF PETITIONS

Dear Mr. Chen :

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, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. 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).


Charlema R. Grant
Petitions Attorney
Office of Petitions

Intellectual property Law Department
Square D Company
1415 South Roselle Road
Palatine, IL 60067-7399
ATTN: Larry I. Golden



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.
PATENT DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121

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JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Bruce A. Judson :
Application No. 09/998,860 : DECISION ON PETITION
Filed: November 15, 2001 :
Attorney Docket No. 000192 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 13, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 13, 2006. Accordingly, the date of abandonment of this application is April 14, 2006. A Notice of Abandonment was mailed on June 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,400 and the publication fee of \$300, (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for appropriate action in accordance with this decision on petition.



Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/23/07

Paper No.:

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9798864 Patent No: 7184397B1

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

[Signature] SPE 2616
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant : Joan C. Teng : DECISION ON REQUEST FOR
Patent Number : 7581011 : RECALCULATION of PATENT
Issue Date : 08/25/2009 : TERM ADJUSTMENT IN VIEW
Application No : 09/998,910 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/30/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1125** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

William J. Daley
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

MAILED

FEB 23 2007

Technology Center 2100

In re Application of:)	
Richard Sinn)	
Application No. 09/998914	)	DECISION ON PETITION TO
Filed: November 30, 2001	)	WITHDRAW THE 37 CFR 1.105
For: Obtaining and Maintaining Real Time	)	REQUIREMENT FOR
Certificate Status	)	INFORMATION
)	

This is a decision on the petition, filed on 29 March 2006, under 37 CFR 1.181 to withdraw the requirement for information under 37 CFR 1.105.

The petition is **Granted**.

Applicant states that it is an inappropriate time for a 37 CFR 1.105 requirement for information when the application is under a final rejection and that the requirement for information is being improper as it states that the references were placed in the file and not considered.

REGULATION AND PROCEDURES

37 CFR 1.105(a)(3) states that:

Requirements for factual information known to applicant may be presented in any appropriate manner, for example:

- (i) A requirement for factual information;
- (ii) Interrogatories in the form of specific questions seeking applicant's factual knowledge; or
- (iii) Stipulations as to facts with which the applicant may agree or disagree.

MPEP § 704.11(a) states that:

...
(S) Interrogatories or Stipulations.

- (1) Of the common technical features shared among all claims, or admission that certain groups of claims do not share any common technical features,

- (2) About the support found in the disclosure for means or steps plus function claims (35 U.S.C. 112, paragraph 6),
- (3) Of precisely which portion(s) of the disclosure provide the written description and enablement support for specific claim element(s),
- (4) Of the meaning of claim limitations or terms used in the claims, such as what teachings in the prior art would be covered by particular limitations or terms in a claim and which dictionary definitions would define a particular claim term, particularly where those terms are not used per se in the specification ...

MPEP § 704.11(b) states:

A requirement for information under 37 CFR 1.105 is discretionary. **A requirement may be made at any time once the necessary for it is recognized** and should be made at the earliest opportunity after the necessity is recognized ... [emphasis added.]

MPEP § 704.11(b)(III) states:

A requirement for information made after the first action on the merits may be appropriate when the application file justifies asking the applicant if he or she has information that would be relevant to the patentability determination. It is rarely appropriate to require information because of a lack of relevant prior art after the first action on the merits.

A requirement for information is not proper when no further action would be taken by the examiner. The reasonable necessity criteria for a requirement for information implies further action by the examiner. This means that actions in which requirements for information necessary for examination are made should generally be a non-final action because the applicant's reply must be considered and applied as appropriate.

MPEP § 1214.04 states in pertinent part:

If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection...

Relevant Facts

On 14 July 2005, a first office on the merits was mailed out including an initialed and signed 1449 that indicated that the examiner considered the SiteMinder documents.

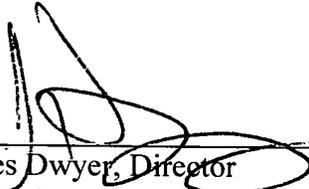
On 30 January 2006, a final office action was mailed out and a rule 105 request was included for the first time requiring an explaining of relevancy and a statement as why the SiteMinder documents were cited. The 105 request stated that the SiteMinder references have been place in the file and have not been considered.

Decision

As the rule 105 request was first introduced at the time of the final rejection it is improper and therefore the Petition is **GRANTED** and the rule 105 requirement is hereby vacated. As the references have been considered no further action is required on this matter.

Any question concerning this decision should be directed to Tod Swann whose telephone number is 571-272-3612.

A new final rejection has been mailed out as of February 16, 2006 and the period for response of that action continues to run.



James Dwyer, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security



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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

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MAR 29 2007

OFFICE OF PETITIONS

In re Application of :
Gregory L. TRAUTH et al. :
Application No. 09/998,941 : **ON PETITION**
Filed: November 15, 2001 :
Attorney Docket No. PIP-81-TRAUU-US :

This is a decision on the petition under 37 CFR 1.181, filed October 26, 2006, requesting withdrawal of the Notice of Abandonment mailed October 12, 2006.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed October 12, 2006 for failure to respond to the Office action mailed November 2, 2005 be withdrawn as petitioner timely filed a response. As evidenced by the itemized copy of the post card receipt date stamped February 2, 2006 a Notice of Appeal and Appeal Brief was received by the USPTO. Furthermore, a review of record indicates that the original copy of the response is now in the file.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3623 for appropriate action on the Appeal Brief filed February 2, 2006.

Brian Hearn
Petitions Examiner
Office of Petitions



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TriQuint Semiconductor, Inc.
2300 NE Brookwood Parkway
Hillsboro OR 97124

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of :
William B. Joyce :
Application No. 09/998,962 :
Filed: October 31, 2001 :
Attorney Docket No. JOYCE 23 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected replacement drawings on or before January 11, 2007 in reply to the Notice of Allowability, mailed October 11, 2006, which set a period for reply of three (3) months. Accordingly, this application became abandoned on January 12, 2007. A Notice of Abandonment was mailed on February 7, 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 replacement drawings; (2) the petition fee of \$1,500; and (3) a showing to the satisfaction of the Director that the entire delay was unintentional. Accordingly, the failure to timely reply to the Notice of October 11, 2006 is accepted as being unintentionally delayed.

This application is being referred to Publishing Division for further processing in accordance with this decision accepting the delayed submission of replacement drawings.

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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Paper No. 12

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 29 2003

OFFICE OF PETITIONS

In re Application of :
Strokbroekx et al. :
Application No. 09/998,975 :
Filed: October 19, 2001 :
Attorney Docket No. :
JAB-1669 :

This is a decision on the Petition to Accord Correct Filing Date, which is properly treated under 37 CFR § 1.10(d), filed June 18, 2003, requesting that the above-identified application be accorded a filing date of October 19, 2001, rather than the presently accorded filing date of November 19, 2001.

Petitioner alleges that the application was deposited in Express Mail service on October 19, 2001. Petitioner has filed the appropriate documentary and corroborating evidence from the USPS demonstrating that October 19, 2001 was the date the correspondence was deposited Express Mail Post Office to Addressee.

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

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to October 19, 2001.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions



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Paper No. 10

DAVID E. STEUBER
SKJERVEN MORRILL MACPHERSON LLP
SUITE 700
25 METRO DRIVE
SAN JOSE, CA 95110-1349

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JUL 18 2003

OFFICE OF PETITIONS

In re Application of :
Michael Turner, et al. :
Application No. 09/998,993 :
Filed: November 15, 2001 :
Attorney Docket No. M-12396 US :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 26, 2002.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

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

The application file is being forwarded to Technology Center 2800, Art Unit 2823 for further processing.



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

cc: Roger S. Sampson
BEYER WEAVER & THOMAS, LLP
P. O. Box 778
Berkeley, CA 94704-0778



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875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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OFFICE OF PETITIONS

In re Application of :
Shinno, et al. :
Application No.: 09/998.995 :
Filed: October 31, 2001 : **ON PETITION**
Attorney Docket No.: 101188-34 :
For: DATA STORAGE SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2006, to revive the above-identified application.

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

This application became abandoned for failure to properly reply to the Notice of Drawing Inconsistency with Specification, mailed November 23, 2005, which set a one month non-extendable period for reply. An amendment, filed December 19, 2005, was disapproved on January 6, 2006. Therefore, this application became abandoned on December 24, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Petitioners have submitted an amendment under Rule 312, including an amended specification sheet, page 5 and a substitute specification, a proper statement as to the unintentional nature of the delay in responding to the November 23, 2005 Notice, and the petition fee. Therefore, the petition is granted.

After the mailing of this decision, the file will be forwarded to Publications Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions



THE SHERWIN-WILLIAMS COMPANY
11 MIDLAND BLDG. – LEGAL DEPT.
101 PROSPECT AVENUE, NW
CLEVELAND, OH 44115

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NOV 06 2008

OFFICE OF PETITIONS

In re Application of :
Gerald M. Sweitzer, et al. :
Application No. 09/998,997 : **DECISION ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. 6933 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 22, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 23, 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; (2) the petition fee of \$1540; and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

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

This application is being referred to Technology Center AU 1714 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/April M. Wise/
April M. Wise
Petitions Examiner
Office of Petitions



PHILIPS ELECTRONICS NORTH AMERICA CORPORATION
INTELLECTUAL PROPERTY & STANDARDS
1109 MCKAY DRIVE, M/S-41SJ
SAN JOSE CA 95131

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NOV 02 2006
OFFICE OF PETITIONS

In re Application of :
Pontius et al. :
Application No. 09/999,007 : **DECISION ON PETITION**
Filed: October 31, 2001 :
Attorney Docket No. US018176 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed May 3, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on May 1, 2006.

This petition is hereby **GRANTED**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified

application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 for further processing.

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



Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Wayne M. Serra
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, OH 44113-1448



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**HENRY H. GIBSON
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PITTSFIELD, MA 01201**

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AUG 18 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth Lee Lilly :
Application No. 09/999,042 :
Filed: November 1, 2001 :
Attorney Docket No. 08C55705-9 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 8, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 9, 2003.

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

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

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



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150 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Luis A. Dellamary et al :
Application No. 09/999,071 :
Filed: December 3, 2001 :
Attorney Docket No. 0057.10 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 8, 2005.

The Associate Power of Attorney filed on June 13, 2005, was filed after June 25, 2004, the effective date of a rule change eliminating the Associate Power of Attorney practice (37 CFR 1.34(b)). The paper has been placed in the official file; however, the name of the patent practitioner listed on the Associate Power of Attorney has **not** been made of record.¹

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

This matter is being referred to Technology Center AU 1714.


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

¹ See Official Gazette of June 22, 2004



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Bradford Addison
Attorney for Applicants
5727-69217
BARNES and THORNBURG, LLP
11 South Meridian Street
Indianapolis, Indiana 46204-3535

Application Number: 09/999,110
Filing Date: November 1, 2001
In re Application: Harvey B. Buck et al.

DECISION ON PETITION

This is a decision on the petition, filed July 19, 2004, to correct inventorship under 37 CFR 1.48(a)(2).

The petition is granted.

In accordance with the petitioner's request, Eric R. Diebold will be listed in the above identified application as a joint inventor.

Long V. Le
Supervisory Patent Examiner
Art Unit 1641
(571) 272-0823



MARSHALL GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
LUTGEN, Craig L., et al. :
Application No. 09/999,118 : **DECISION ON PETITION**
Filed: November 30, 2001 :
Attorney Docket No. 29250/CE04834N :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 9, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 10, 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/Appeal fee of \$500; (2) the petition fee of \$1500; and (3) a proper statement of unintentional delay.

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

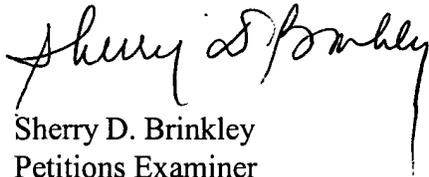
The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Kevin D. Wills appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Kevin D. Wills desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats.

1988). Since the \$1020 extension of time fee submitted with the petition on October 10, 2006 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 Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2616 for further prosecution of the application.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **KEVIN D. WILLS**
1303 EAST ALGONQUIN ROAD
IL01/3RD FLOOR
SCHAUMBURG, IL 60196



DOW CORNING
CORPORATION CO1232
2200 W. SALZBURG ROAD
P.O. BOX 994
MIDLAND MI 48686-0994

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DEC 24 2002

OFFICE OF PETITIONS

In re Application of
Morita, et al.

Application No. 09/999,130

Filed: 31 October, 2001

Attorney Docket No. TSL1679

:
:
DECISION ON PETITION
:
:

This is the decision on the petition filed 30 September, 2002, to revive the above-identified application under 37 C.F.R. §1.137(a).¹

The Office regrets the delay in addressing this matter.

The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)² (as to unintentional delay) must be submitted within two (2) months from the mail date of this

¹ A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:

- (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee required by 37 C.F.R. §1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

² Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates that:

- the application became abandoned for failure to reply timely and properly to the Notice to file Missing Parts (oath or declaration and late-filing surcharge (\$130.00)) mailed on 18 December, 2001, and due (absent extension of time) on or before 18 February, 2002;
- through his statement and supporting documentation,³ Petitioner alleges that the Docket Clerk was terminated due to a reduction in force and that neither the agent nor a contract worker was sufficiently skilled with the docketing system to recognize that the Notice of Missing Parts had been received and a reply was due;
- contemporaneously with the instant petition, Petitioner filed the oath/declaration with a copy of the Notice of Missing Parts and paid the late filing surcharge.

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).⁴

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

³ In a telephone conversation with the Office on Monday, 16 December, 2002, Petitioner agreed to supply via FAX ((703) 308-6916) additional documentation to the Office. As of this writing, this material has not been received.

⁴ 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 first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁵

Delays in responding properly raise the question whether delays are unavoidable.⁶ 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).⁷ And the Petitioner must be diligent in attending to the matter.⁸ 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.⁹))

Allegations as to the Petition Alleging Unavoidable Delay

The applicant alleges that a down-sizing of the professional office, termination of the Docket Clerk and inability of the professional and contract worker in the office to review properly the 18 December, 2001, Office action resulted in the abandonment, and that such events constituted unavoidable delay.

A delay is not "unavoidable" when the persons responsible for the prosecution of the application failed to read the contents of an Office action, and so simply permit the maximum extendable statutory period for reply to expire.¹⁰ In determining if a delay was unavoidable, decisions on reviving abandoned applications have adopted the standard of the reasonably prudent person acting in their most important business matters.¹¹

⁵ 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.

⁶ 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).

⁷ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁸ 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.

⁹ 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.

¹⁰ See MPEP 711.03(c)(III)(C)(2).

¹¹ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."¹²

Petitioner has failed to support the allegation and so has failed to satisfy the "showing" requirement herein.

Accordingly, in view of the failure of the Petitioner to satisfy the "showing" requirement herein, the petition to revive as to unavoidable delay under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore, Petitioner's only alternative to irretrievable abandonment is to file a petition and fee as set forth at NOTE 1, above at page 2, under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional," and submit therewith the requisite "reply" (now filed).

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Petitioner is cautioned that a delay in addressing this matter properly and timely under 37 C.F.R. §1.137(b) may be considered intentional delay and as such an irreversible bar to revival.

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

¹² Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

A handwritten signature in black ink, appearing to read 'J. Gillon, Jr.', with a stylized flourish at the end.

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



DOW CORNING
CORPORATION CO1232
2200 W. SALZBURG ROAD
P.O. BOX 994
MIDLAND MI 48686-0994

COPY MAILED

JAN 31 2003

OFFICE OF PETITIONS

In re Application of
Morita, et al. :
Application No. 09/999,130 : **DECISION ON PETITION**
Filed: 31 October, 2001 :
Attorney Docket No. TSL1679 :

This is the decision on the petition filed 30 September, 2002, to revive the above-identified application under 37 C.F.R. §1.137(b).¹

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

BACKGROUND

The record indicates that:

- the application became abandoned for failure to reply timely and properly to the Notice to file Missing Parts (oath or declaration and late-filing surcharge (\$130.00)) mailed on 18 December, 2001, and due (absent extension of time) on or before 18 February, 2002;
- through his statement and supporting documentation filed with the original petition under 37 C.F.R. §1.137(a), alleging unavoidable delay, Petitioner alleged that the Docket Clerk was terminated due to a reduction in force and that neither the agent nor a contract worker was sufficiently skilled with the docketing system to recognize that the Notice of Missing Parts had been received and a reply was due;

¹ Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

- the original petition was dismissed on 24 December, 2002, for failure to satisfy the "showing" requirement;
- the instant petition (with fee) was filed on 21 January, 2003;
- contemporaneously with the original petition, Petitioner filed the oath/declaration with a copy of the Notice of Missing Parts and paid the late filing surcharge.

Accordingly, in view of Petitioner's satisfaction of the "reply" and statement requirements, the petition to revive as to unintentional delay under 37 C.F.R. §1.137(b) is **granted**.

The instant application is being forwarded to OIPE to complete the initial review before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



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



Paper No. 8

CHRISTOPHER C. WINSLADE
McANDREWS HELD & MALLOY
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

COPY MAILED

NOV 17 2003

OFFICE OF PETITIONS

In re Application of :
Mead C. Killion :
Application No. 09/999,133 : NOTICE
Filed: November 1, 2001 :
Attorney Docket No. 10078US07 :

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 2643.

Wan Layton
Wan Layton
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

Ansel M Schwartz
Attorney At Law
201 N Craig Street
Suite 304
Pittsburgh, PA 15222

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of
Walsh et al. :
Application No. 09/999,156 :
Filed: November 15, 2001 : NOTICE
Patent No. 6,886,107 :
Issued: April 26, 2005 :
Attorney Docket Number: MYOG:034US :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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


Derek L. Woods
Attorney
Office of Petitions



Paper No. 4

REED & ASSOCIATES
800 MENLO AVENUE
SUITE 210
MENLO PARK CA 94025

COPY MAILED

JUN 18 2002

OFFICE OF PETITIONS

In re Application of :
Mutz et al. :
Application No. 09/999,166 : DECISION GRANTING PETITION
Filed: 29 November, 2001 :
Atty's Docket No. 7610-0022.21 :

This is a decision on the petition filed on 14 May, 2002, which is treated as a petition requesting that the above-identified application, including Figure 2A described in the specification, be accorded a filing date of 29 November, 2001.

The petition is granted.

On 29 November, 2001, the application was filed.

On 12 December, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 12 December, 2001, but that, *inter alia*, Figure 2A described in the specification appeared to have been omitted.

In response, on 14 May, 2002 (certificate of mailing date 12 February, 2002), nine (9) sheets of drawings containing, *inter alia*, Figure 2A and the present petition were submitted. Petitioners assert that Figure 2A was filed with the other application papers on 29 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 29 November, 2001, with the above-identified application number, and identifies the application by attorney docket number, inventor's names, and invention title, and acknowledges receipt, *inter alia*, of drawings 9 pages. Petitioners request that the application, including the one (1)

sheet of drawings containing Figure 2A, be accorded a filing date of 29 November, 2001.

A review of the record reveals that eight (8) sheets of drawings, containing Figures 1A, 1B, 2B, 2C, 3A-D, 4A, 4B, 5A-E, are located among the application papers deposited on 29 November, 2001. However, the evidence is convincing that the application papers deposited on 29 November, 2001, included nine (9) sheets of drawings and that the sheet of drawings containing Figure 2A was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawings containing Figure 2A as described in the specification, is entitled to a filing date of 29 November, 2001.

The "Notice" mailed on 12 December, 2001, is vacated to the extent that it stated that Figure 2A described in the specification appeared to have been omitted. The petition fee will be refunded to counsel's deposit account, No. 18-0580.

The application will be processed and examined using the application papers filed on 29 November, 2001, and the copy of one (1) sheet of drawings containing Figure 2A supplied on 14 May, 2002. The copies of the other eight (8) sheets of drawings supplied on on 14 May, 2002, will not be used for processing or examination purposes, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 29 November, 2001, using the application papers filed on 29 November, 2001, and the one (1) sheet of drawings containing Figure 2A supplied on 14 May, 2002, and for an indication on the bib-data sheet that nine (9) sheets of drawings were present on filing.

Telephone inquires should be directed to Petitions Attorney
Douglas I. Wood at 703 308-6918.



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



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



TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 08 2010
OFFICE OF PETITIONS

In re Patent No. 7,085,834
Issued: August 1, 2006
Application No. 09/999,177
Filed: November 30, 2001
Attorney Docket No: 21756-013200

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:
:
:
:
:

ON PETITION

This is a decision regarding your requests for acceptance of fee deficiency submissions and loss of small entity status filed February 11, 2010 and March 4, 2010 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 and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

MAILED

FEB 04 2004

In re application of
Leon W. Pierce JR.

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

Paper No. 12

Application No. 09/999,184
Filed: November 29, 2001
For: TRELLIS SYSTEM AND METHOD

: **DECISION ON REQUEST**
: **FOR WITHDRAWAL OF**
: **ATTORNEY**

This is a decision on the request filed on October 24, 2003 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

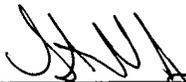
The request is **NOT APPROVED**.

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

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.



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

SNM/cps: 1/21/04



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Foley and Lardner, LLP
Suite 500
3000 K Street NW
Washington, DC 20007

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SEP 03 2008

OFFICE OF PETITIONS

In re Application of
Lawrence Boni et al.
Application No. 09/999,191
Filed: December 3, 2001
Attorney Docket No. 040403-0221

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 17, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marita Hobman
Oncothyreon
Edmonston Research Park
2011 - 94th Street
Edmonton, Alberta
CANADA T6N 1H1



Paper No. 21

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

COPY MAILED

JAN 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bruce G. Ramsay
Application No. 09/999,199
Filed: October 24, 2001
Attorney Docket No. M-10083-1C US

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

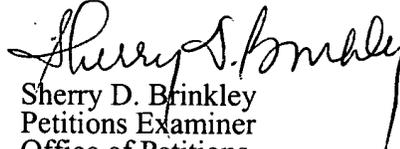
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 10, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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 1763 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

¹The 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).



Paper No. 27

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO, CA 94111

COPY MAILED

MAY 20 2004

OFFICE OF PETITIONS

In re Application of :
Bruce G. Ramsay :
Application No. 09/999,199 :
Filed: October 24, 2001 :
Attorney Docket No. M-10083-1C US :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed May 19, 2004, requesting that the above-identified application be withdrawn from issue.

The petition is DISMISSED AS MOOT.

A review of the record discloses that a new Notice of Allowance and Issue Fee Due was mailed on April 26, 2004. Since the present Request for Continued Examination (RCE) under 37 CFR 1.114 was filed within the period set for paying the issue fee, a petition to withdraw the application from issue under 37 CFR 1.313 is not necessary.

After the application is received in the Office of Petitions, the file will be returned to Technology Center AU 1763 for processing the RCE filed May 19, 2004.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 21, 2005

TO SPE OF : ART UNIT 1763 (*Parviz Hassanzadeh*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,902,625

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

Please complete this form and return with file, within 7 days to:

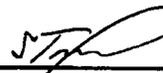
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Please see - requesting deletion of text in claim 11, and adding claim 27! Your denial or approval decision is needed below.

Thank You For Your Assistance

sp  STACY POWELL
Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

Note your decision on the appropriate box.

- | | |
|--|---|
| <input type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments:

→ the last version of claims of 8/28/03 shows that section (f) is part of claim 11. Therefore changes to claim 11 is Denied; new claim 27 is also Denied accordingly.
→ corrections to claims 21 and 22 are approved
see attachment.

PARVIZ HASSANZADEH
SUPERVISORY PATENT EXAMINER

SPE

1763
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/999,222	10/24/2001	2825	587	18685-000120	14	17	2

CONFIRMATION NO. 7971

CORRECTED FILING RECEIPT



OC000000014883560

20350
 TOWNSEND AND TOWNSEND AND CREW, LLP
 TWO EMBARCADERO CENTER
 EIGHTH FLOOR
 SAN FRANCISCO, CA 94111-3834

Date Mailed: 01/05/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Arvind Srinivasan, San Jose, CA;
 Haroon Chaudhri, Berkeley, CA;

Assignment For Published Patent Application

Circuit Semantics, Inc., San Jose, CA

Power of Attorney: The patent practitioners associated with Customer Number 20350.

Domestic Priority data as claimed by applicant

This application is a DIV of 09/357,940 07/21/1999 PAT 6,499,129
 which claims benefit of 60/093,830 07/22/1998

Foreign Applications

If Required, Foreign Filing License Granted: 01/26/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US09/999,222**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

METHOD OF INCREMENTAL RECHARACTERIZATION TO ESTIMATE PERFORMANCE OF INTEGRATED CIRCUIT DESIGNS

Preliminary Class

716

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

GRANTED

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 8, 2006

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction on Patent No.: 6,507,090

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

Please complete this form and return with file, within 7 days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Elisha Evans

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

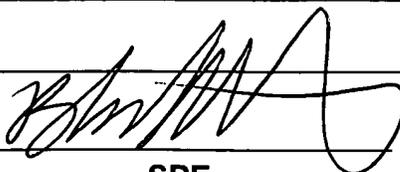
Denied

State the reasons for denial below.

Comments:

CLERICAL CORRECTION - OR TO ENTER

B. WILLIAM BAUMEISTER
SUPERVISORY PATENT EXAMINER



SPE

2815

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

Linda A. Stokley
Chevron Texaco Corporation
P.O. Box 6006
San Ramon, CA 94583-0806

COPY MAILED

APR 07 2004

In re Application of :
Palazzotto, et al. :
Application No. 09/999,235 :
Filed: November 29, 2001 :
Attorney Docket No. T6054B :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed March 26, 2003. Accordingly, this application became abandoned on June 27, 2003. A Notice of Abandonment was mailed on October 22, 2003.

The file is being forwarded to Technology Center 1700.

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



Paper No. 10

Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Boradhollow Road
Melville, NY 11747

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of :
Menday et al. :
Application No. 09/999,268 :
Filed: October 31, 2001 :
Attorney Docket No. n/a :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 15, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2003.

The application file is being forwarded to Technology Center AU 1772 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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MAY 16 2005

OFFICE OF PETITIONS

Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306

In re Application of
Bowman et al.
Application No. 09/999,269
Filed: November 11, 2001
Attorney Docket No. 086739-0117

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: DECISION GRANTING PETITION
:
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 24, 2004. Patentees request that the initial determination of patent term adjustment be corrected from zero (0) to twenty-nine (29) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be made by making an adjustment to the PAIR calculation revising the Patent Term Adjustment from zero to twenty-nine (29) days at the time of the mailing of the notice of allowance.

On May 13, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On May 24, 2004, patentees timely¹ submitted an application for patent term adjustment (with required fee). Patentees dispute the reduction of 36 of the 136 days attributed to applicants for failing to respond within three months to the Notice to File Missing Parts of Application mailed December 19, 2001. Patentees state that they timely responded to the notice on May 19, 2002.²

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

¹ PALM records show that the Issue Fee payment was also received in the Office on August 13, 2004.

² Applicants assert that they responded to the notice to file missing parts on May 19, 2002. However, for purposes of Patent term adjustment the response did not occur until June 27, 2002, the date of receipt in the Office of applicants' response. Note that the certificate of mail date pursuant to 37 CFR 1.8 is not considered the date of response by applicant for purpose of patent term adjustment calculations. Rather, the date of receipt in the Office is considered the date of response by applicant. Applicants could lessen the period of reduction by filing the response by express mail pursuant to 37 CFR 1.10.

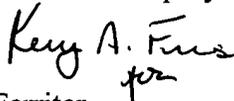
A review of the application file reveals that applicants' response to the Notice to File Missing Parts of Application mailed December 19, 2001, is of record in the application with a date of receipt by the Office of June 27, 2001. Moreover, the response is complete and proper. As this response was filed outside of the three-month period under 37 C.F.R. § 1.704(b), but prior to the date that the Office asserted that the response was filed. Accordingly, the reduction should have only been for thirty-six (36) days rather than one hundred and thirty six days.³

Accordingly, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is twenty-nine (189-(60+100)) days.

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

The application file is being forwarded to the Office of publications for issuance of the patent. Any delay in the issuance of the patent will be reflected in the second determination of Patent Term Adjustment which occurs at the time of the issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor for the Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.



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

Enclosure: Copy of DRAFT Certificate of Correction

³The Office notes that applicants assertion that the response was only 100 days of applicant delay, not 136 days of applicant delay, was accurate. The reduction began on March 20, 2002 and ended on June 27, 2002. Applicant provided the right amount of delay even though applicant asserted that the delay ended on June 19, 2002.



MORGAN, LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

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OFFICE OF PETITIONS

In re Application of	:	
Mike Farwick, et al.	:	
Application No. 09/999,392	:	DECISION ON PETITION
Filed: October 31, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 29474-5008	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed July 12, 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 31, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner should be aware that it is impermissible and improper to include a claim for foreign priority in an amendment to the specification. Nevertheless, benefit of the aforementioned foreign application was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

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

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

Any questions concerning this decision on petition may be directed to Retta Williams at (703) 306-5594.

This application is being referred to Technology Center Art Unit 1636 for appropriate action on the amendment filed July 12, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.



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

Attachment: Corrected Filing Receipt



Hoffmann-La Roche Inc.
Patent Law Department
340 Kingsland Street
Nutley, NJ 07110

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DEC 02 2003

OFFICE OF PETITIONS

In re Application of
Johannes Aebi
Application No. 09/999,424
Filed: October 31, 2001
Attorney Docket No. 20779

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ON PETITION

This is a decision on the petition filed June 30, 2003, which is being treated solely as a petition 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 November 5, 2002, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on May 5, 2003. Accordingly, the above-identified application became abandoned on May 6, 2003.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

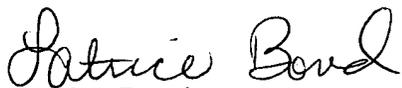
(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the

application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

The application file is being forwarded to Technology Center AU 1626 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 19

Hoffman-LaRoche Inc.
Patent Law Department
340 Kingsland Street
Nutley, NJ 07110

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APR 26 2004

OFFICE OF PETITIONS

In re Application of :
Johannes Aebi :
Application No. 09/999,424 :
Filed: October 31, 2001 :
Attorney Docket No. 20779 :

ON PETITION

CORRECTED DECISION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed June 30, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The instant petition was filed without a reply to the Final Office action mailed November 5, 2002. In view thereof, the petition should not have been granted and the decision mailed December 2, 2003 was mailed in error. The decision of December 2, 2003 is hereby vacated. Any inconvenience caused to petitioner is regretted.

Petitioner has submitted a Request for Continued Examination (RCE) along with a submission required by 37 CFR 1.114 in the form of an amendment. Accordingly, the petition is now acceptable.

Petitioner argues that a reply was timely filed and that no petition fee should be charged. Petitioner is correct in that the amendment was submitted within time period allowed, but that same amendment did not place the application in condition for allowance. As such, if no amendment has been submitted to make the application allowable, the application stands abandoned. *See MPEP 714.13*. Therefore, the application was properly abandoned.

The petition fee of \$1300 will not be refunded to petitioner.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1600 for processing the Request for Continued Examination under 37 CFR 1.114 filed February 2, 2004.



Marianne E. Morgan

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

**MICHAEL PROKSCH
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025**

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DEC 06 2006

OFFICE OF PETITIONS

In re Application of :
Gore et al. :
Application No. 09/999,438 :
Filed: November 28, 2001 :
Attorney Docket No. P15427 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a RCE and a Preliminary Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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


Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

MICHAEL A. PROKSCH
2111 NE 25TH AVENUE
HILLSBORO, OR 97124



Paper No. 3

Dan Swayze
Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas TX 75265

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MAY 13 2002

In re Application of
Parkhurst, et al.
Application No. 09/999,475
Filed: November 15, 2001
Attorney Docket No. TI-33178

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OFFICE OF PETITIONS

This is a decision on the paper styled "TRANSMITTAL LETTER REQUESTING CORRECTED FILING DATE," filed February 8, 2002 (certificate of mailing date January 10, 2002), which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of November 14, 2001, rather than the presently accorded filing date of December 3, 2001.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on November 14, 2001, pursuant to the requirements of 37 CFR 1.10. However, petitioners have not supplied a copy of their Express Mail customer receipt showing a date of deposit in Express Mail service of November 14, 2001.

Section 1.10(a) of title 37, Code of Federal Regulations, stated 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 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.

The Patent and Trademark Office (PTO) considers the date the paper or fee is shown to have been deposited as Express Mail as set forth in §1.10(a) to be the "Date-In" on the Express Mail label.

Placing the "Date-In" on the Express Mail label by the postal clerk establishes that the package was actually received by the Postal Service. That is the date that verifies that the package was actually mailed.

This petition does not comply with one of the two requirements under 37 CFR 1.10(c). First, petitioner must submit 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. 37 CFR 1.10(c)(3). Second, petitioner is required to show the number of the "Express Mail" mailing label was placed on the correspondence prior to the original mailing by "Express Mail." 37 CFR 1.10(c)(2).

In this case, petitioner has not provided a copy of Express Mail receipt EL840960175US showing a date-in of November 14, 2001.

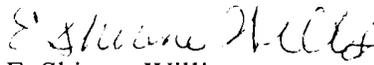
However, an independent review of the PTO's USPS Express Mail Information Database reveals that an application bearing an Express Mail label no. of EL840960175US was accepted by the USPS on November 15, 2001 at 8:45. This date of acceptance by the USPS is corroborated by a review of the USPS Shipping Center/Track and Confirm information available.

Therefore, this application is entitled to a filing date of **November 15, 2001**. Accordingly, the petition to accord an earlier filing date is granted in part.

As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 15, 2001. The Office of Initial Patent Examination will mail a corrected filing receipt showing the filing date as November 15, 2001.

Telephone inquiries specific to this matter 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
P.O. BOX 1450
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AUG 18 2005

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of :
Luft : DECISION GRANTING
Application No. 09/999,503 : PETITION UNDER 37 CFR
Filed: October 22, 2001 : 1.137(f)
Attorney Docket No.: 4906.P016x :

This decision is in response to the petition under 37 CFR 1.137(f), filed July 14, 2005.

The petition is hereby **GRANTED**.

Petitioners state that the instant non-provisional application is the subject of an application filed December 20, 2001 in a foreign country, or under a multinational treaty, that requires publication of applications eighteen months after filing. Petitioners' further state that petitioners unintentionally failed to notify the Office of this filing within 45 days of the filing of the subject application in a foreign country.

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

A grantable petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply; (2) the petition fee; (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; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found to be in compliance with the provisions of 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) was rescinded as indicated in the Notice mailed July 25, 2005.

This application is being forwarded to Technology Center 2600 for further processing.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions



BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Luft : DECISION ON PETITION
Application No. 09/999,503 :
Filed: October 22, 2001 :
Docket No.: 4906.P016x :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 27, 2005, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned August 4, 2005 for failure to timely reply to the non-final Office action mailed May 3, 2005. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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

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

This application is being forwarded to Technology Center 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

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 11

MARIA M. ELISEEVA
BROWN RUDNICK BERLACK ISRAELS LLP
ONE FINANCIAL CENTER
18TH FLOOR
BOSTON, MA 02111

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JUN 0 4 2004

OFFICE OF PETITIONS

In re Application of :
David W. Sherrer et al :
Application No. 09/999,517 :
Filed: October 24, 2001 :
Attorney Docket No. 23091.6 (ACT-158) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 19, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 20, 2002.

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

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

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

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

cc:

Maria M. Eliseeva
Houston Eliseeva LLP
4 Militia Drive, Ste. 4
Lexington, MA 02421



LARSON NEWMAN ABEL
POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

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OCT 02 2006

OFFICE OF PETITIONS

In re Application of :
May : DECISION ON PETITION
Application No. 09/999,540 :
Filed: October 31, 2001 :
Docket No.: VIXS.0100270 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2006, to revive the above-identified application.

The petition is GRANTED.

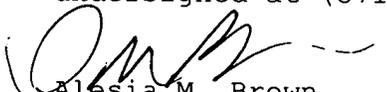
This application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed September 16, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed June 2, 2006.

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

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

This application will be forwarded to the Office of Patent Publication for further processing.

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


Alesia M. Brown
Petitions Attorney
Office of Petitions



**EDWARD J. KELLY
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624**

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JUL 24 2008

In re Application of
GONNELLI, Robert R. et al.
Application No. 09/999,549
Filed: November 30, 2001
Attorney Docket No. **BVTP-P01-008**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 02, 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 Yu Lu on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 24, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT R. GONNELLI
52 JAMES BRITE CIRCLE
MAHWAH, NEW JERSEY 07430**

cc: **MR. MARK LEWIS
SENIOR DIRECTOR, PROGRAM MANAGEMENT
VALERITAS LLC.
800 BOSTON TURNPIKE
SHREWSBURY, MASSACHUSETTS 01545**



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LOVELAND, CO 80537-0599

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NOV 25 2003

OFFICE OF PETITIONS

In re Application of :
Marvin Glenn Wong et al :
Application No. 09/999,590 :
Filed: October 31, 2001 :
Attorney Docket No. 10010640-1 :

ON PETITION

This is a decision on the petition, filed November 20, 2003 and supplemented on November 21, 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 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2834 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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



Paper No. 6

U. S. Patent Operations/ TJG
Dept. 4300, M/S 27-4-A
AMGEN, INC.
One Amgen Center Drive
Thousand Oaks, CA 91320-1799

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DEC 10 2004

OFFICE OF PETITIONS

In re Application of : DECSION ON PETITION
Kostenuik et al. :
Application No. 09/999,608 :
Filed: October 31, 2001 :
Attorney Docket No. A-665C :

This is a decision on the "PETITION TO ACCORD A FILING DATE" filed October 28, 2004, requesting correction of the filing date from March 11, 2002 to October 31, 2001.

The petition is GRANTED.

Application papers in the above-identified application were deposited on October 31, 2001. On January 25, 2002, the Office of Initial Patent Examination (OIPE) mailed applicants a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, stating *inter alia* that the application papers had been accorded a filing date of October 31, 2001; however, a signed oath or declaration and a late surcharge under § 1.16(1) were required. Moreover, the application failed to comply with the requirements of 37 C.F.R. 1.821-1.825 and figure 7 described in the specification appeared to have been omitted. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

The record indicates that, on March 11, 2002, applicants filed a reply to the Notice, which included the declaration and late surcharge (but not a response to the sequence requirement). As stated by applicants, the response did not include either a petition asserting that the omitted drawing had in fact accompanied the filing of the application, or a petition to add Figure 7 to the application.

Nonetheless, petitioner states that on September 1, 2004, the Office mailed an UPDATED FILING RECEIPT, which showed a new filing date of March 11, 2002. The record confirms that the filing date of this application was changed to March 11, 2002.

35 U.S.C. 111(a)(4) provides that:

Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as

abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the fee and oath was unavoidable or unintentional. The 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.

Likewise, 37 CFR 1.53(b) provides, in reference to a nonprovisional application, that:

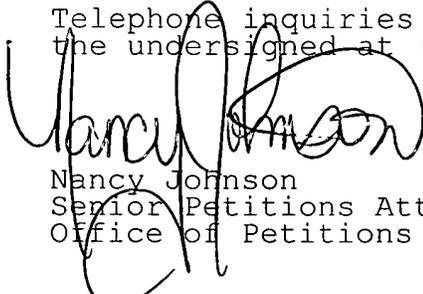
The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112 containing a 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.

Pursuant to 35 U.S.C. 111(a) and 37 CFR 1.53(b), the instant application met the requirements to be entitled to a filing date on October 31, 2001. The filing date of this application should not have been changed to the date of filing of the declaration. A review of the application file reveals no proper basis for changing the filing date of this application to March 11, 2002.

Given the basis for granting this petition, the petition fee is being refunded to Deposit Account No. 01-0519, as authorized.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to October 31, 2001 and mailing of a corrected filing receipt.

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

Paper No.

U. S. Patent Operations/ TJG
Dept. 4300, M/S 27-4-A
AMGEN, INC.
One Amgen Center Drive
Thousand Oaks CA 91320-1799

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NOV 22 2006

OFFICE OF PETITIONS

In re Application of :
Kostenuik et al. : DECISION ON PETITION
Application No. 09/999,608 :
Filed: October 31, 2001 :
Attorney Docket No. A-665C :

This is a decision on the PETITION TO REVIVE UNDER 37 CFR
1.137(b) filed October 13, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed January 24, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective April 25, 2006. A courtesy Notice of Abandonment was mailed on August 22, 2006.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 1649 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed October 13, 2006.

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
UNITED STATES PATENT AND TRADEMARK OFFICE
P. O. Box 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

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

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JUL 08 2003

OFFICE OF PETITIONS

In re Application of :
Chen-Chung Huang, et al. :
Application No. 09/999,610 : DECISION GRANTING PETITION
Filed: October 24, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. M-11418 US :

This is a decision on the petition, filed May 19, 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 22, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

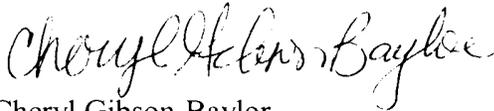
- (1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing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

The instant petition has been found in compliance with 37 CFR 1.137(b). 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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 9, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center 2800, Art Unit 2874, to await a reply to the non-final office action mailed March 31, 2003. Failure to timely reply will again result in the abandonment of the application.



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



Frances Hicks
Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



417

PATENT
Attorney Docket No. M-11418 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
 Chen-Chung HUANG et al.)
)
 Application No.: 09/999,610) Group Art Unit: 2874
)
 Filed: October 24, 2001) Examiner: Hemang SANGHAVI
)
 For: OPTICAL SYSTEM FOR)
 CALIBRATION AND CONTROL)
 OF AN OPTICAL FIBER SWITCH)

RECEIVED

MAY 21 2003

OFFICE OF PETITIONS

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

Sir:

**NOTICE OF FILING OF APPLICATION PURSUANT TO
35 U.S.C. § 122(b)(2)(B)(iii) AND 37 C.F.R. § 1.213(c) AND
REQUEST FOR RESCISSION OF NON-PUBLICATION REQUEST**

On October 24, 2001, an authorized agent of the above-identified Applicants filed a Request for Nonpublication with the above-referenced application.

Pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 C.F.R. § 1.213(c), Applicants hereby notify the U.S. Patent and Trademark Office that an application directed to the invention disclosed in the above-identified application was filed in the PCT on October 22, 2002.

In view of the foregoing, Applicants withdraw the previously filed Request for Nonpublication.

If there are any fees due in connection with the filing of this notice, including any fees required for an extension of time, such an extension is requested, and the Commissioner is authorized to charge any related fees to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 19, 2003

By: 
Gary J. Edwards
Reg. No. 41,008

RECEIVED
MAY 21 2003
OFFICE OF PETITIONS



DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Moore	:	
Application No. 09/999,639	:	DECISION ON PETITION
Filed: 25 October, 2001	:	
Attorney Docket No. AUS920010348US1	:	

This is a decision on the petition filed on 15 February, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The petition is **GRANTED**.

BACKGROUND

A review of the application file reveals that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due and Notice of Allowability mailed on 21 September, 2004, with reply due under a non-extendable deadline on or before 21 December, 2004;
- the application went abandoned after midnight 21 December, 2004;
- the Office mailed a Notice of Abandonment on 14 March, 2005;
- on 15 February, 2006, Petitioner Brian F. Russell (Reg. No. 40,796) filed the instant

petition, and averred that the non-final Office action was mailed to an incorrect address—one not associated with Petitioner's Customer No. 42640—as was the Notice of Abandonment—and thus was not and could not have been received;

- Petitioner further avers that he Noticed the Office of a change of address on 27 August, 2004, several weeks before the Notice of Allowance was mailed, however, the Office appears to have recorded the requested Customer Number as 42840, rather than 42640;
- while it is worth noting that the Notice of Change of Address submitted by Petitioner was submitted via FAX and there is distortion in the numeric characters, the clear evidence is that Petitioner timely Noticed the Office and provided underlying information that was accurate, and that the data entry of the change was incorrectly made by the Office.

Petitioner is not being held to the two- (2-) month period specified in the regulations at 37 C.F.R. §1.181 because Petitioner cannot be said to have been on notice of the abandonment contemporaneously with the mailing.

Petitioner notes that as of the filing of the instant petition, Petitioner had not received a Notice of Allowance.

That oversight is corrected by enclosure herewith of copies of:

- the Examiner Interview Summary Record of 30 August, 2004;
- the Notice of Allowance and Allowability and Fees Due, and the Examiner Interview Summary Record of 21 September, 2004.

In this connection, Office records reflect that Petitioner has not paid the fees due.

Accordingly, Petitioner is required to pay the Fees Due (to include the Issue and Publication Fees) no later than three (3) months from the mail date of this decision, and that date is not extendable under law.

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

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 regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.²

Delays in responding properly raise the question whether delays are unavoidable.³ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁴ And the Petitioner must be diligent in attending to the matter.⁵ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁶))

The courts have outlined the construct for the granting of relief as to the withdrawal of the holding of abandonment. (See: Delgar v. Schulyer.⁷)

the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

² Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

³ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

⁴ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁵ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 *Off. Gaz. Pat. Office* 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 *Off. Gaz. Pat. Office supra*.

⁶ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁷ Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner has satisfied the *Delgar* requirements to support the withdrawal of the holding of abandonment.

Accordingly, the instant petition under 37 C.F.R. §1.181 must be and hereby is **granted**; the petition fee is waived and none was charged.

Once again, Petitioner is reminded that Petitioner is required to pay the Fees Due (to include the Issue and Publication Fees) no later than three (3) months from the mail date of this decision, and that date is not extendable under law.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



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

Encl. Examiner Interview Summary Record of 30 August, 2004
Notice of Allowance and Allowability and Fees Due, and Examiner Interview
Summary Record of 21 September, 2004



Paper No. 4

David K. Purks
MYERS BIGEL SIBLEY & SAJOVEC
P.O. Box 37428
Raleigh, NC 27627

MAILED

MAR 01 2004

Technology Center 2100

In re Application of:)
Brian Carlson)
Application No. 09/999,655) **DECISION ON REQUEST FOR**
Filed: October 30, 2001) **WITHDRAWAL AS ATTORNEY**
For: METHOD, MODEMS, AND)
SYSTEMS FOR BLOCKING DATA
TRANSFERS UNLESS INCLUDING
PREDEFINED COMMUNICATIONS
TO PROVIDE ACCESS TO A
NETWORK

This is a decision on the Request To Withdraw from Representation filed February 12, 2004.

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

The request filed February 12, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

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

cc: John Han
Associate General Counsel-Intellectual Property
ERICSSON INC.
MS/EVW2-C-2
6300 Legacy Drive
Plano, TX 75024



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

WAYNE F. FEINKE, ESQ.
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203-5160

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MAY 08 2003

OFFICE OF PETITIONS

In re Application of :
Walter J. Smith :
Application No. 09/999,664 : DECISION GRANTING PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. 1370.002 :

This is a decision on the petition, filed April 28, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 24, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 14, 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 1733 to await a reply to the nonfinal Office action mailed March 13, 2003. Failure to timely reply will again result in the abandonment of the application.



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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request


UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/999,664	10/25/2001	Walter J. Smith	1370.002

CONFIRMATION NO. 6770

Wayne F. Reinke, Esq.
 Heslin Rothenberg Farley & Mesiti P.C.
 5 Columbia Circle
 Albany, NY 12203-5160



OC00000009980846

NOTICE REGARDING RESCISSION OF NONPUBLICATION REQUEST

Applicant's rescission of the previously-filed nonpublication request is acknowledged. The rescission has been reflected in the Office's computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/14/2003.

If the applicant filed the application with a nonpublication request and then subsequently filed an application directed to the invention disclosed in the application with the nonpublication request in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, applicant was required to provide notice of foreign filing within 45 days after the date of the filing of such foreign or international application. If the rescission did not contain the notice of foreign filing (e.g., the PTO/SB/36, version 10/01 was not used), or if the notice of foreign filing was not filed within the 45 day period, the application is ABANDONED, and a petition under 37 CFR 1.137(b)/(f) is required to be filed. (See 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c).)

Any petition, filed with the rescission, under 37 CFR 1.137(b)/(f) to revive the application is being forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.



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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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Scott D. Pearson	: DECISION ON REQUEST FOR
Patent Number	: 7622174	: RECALCULATION OF PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/999,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1943** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON, BROOK, SMITH &
REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Kamentsky, et al.

:

Application No. 09/999,718

:

DECISION ON PETITION

Filed: October 31, 2001

:

Attorney Docket No. 2657.2002-001

This is a decision on the petition under 37 CFR 1.137(b), filed, February 14, 2007, 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 March 13, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. A Notice of Appeal was filed on August 16, 2006, with a request for an extension of time within the second month. A Notice of Appeal is not, however, a proper response to a non-final Office action. No further responses were filed within the allowable period. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 14, 2006.

The amendment filed February 14, 2007, is noted.

The petition fee of \$750.00 will be charged to deposit account 08-0380.

The application is being forwarded to Technology Center 2100, GAU 2152 for further processing.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant : Lee Kamentsky : DECISION ON REQUEST FOR
Patent Number : 7653743 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Application No : 09/999,718 : OF WYETH AND NOTICE OF INTENT TO
Filed : 10/31/2001 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **378** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

MICHAEL J. GROSS
SHOOK, HARDY & BACON L.L.P.
1200 Main Street
Kansas City MO 64105-2118

COPY MAILED

JUL 16 2002

In re Application of:	:	OFFICE OF PETITIONS
David Horne	:	
Application No. 09/999,734	:	DECISION GRANTING STATUS
Filed: October 24, 2001	:	UNDER 37 CFR 1.47(b)
Title of Invention: PLASTIC	:	
RECYCLING SYSTEM AND PROCESS	:	

This is a decision on the Petition under 37 CFR 1.47(b), filed February 1, 2002, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO RESPOND WILL RESULT IN THE ABANDONMENT OF THIS APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(b)."

This application was filed on October 24, 2001, without an oath or declaration that complies with 37 CFR 1.63. A Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") was mailed on December 20, 2001, noting in relevant part the above deficiencies therein.

In response Petitioner filed the instant Petition.

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; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor(s); (5) proof of proprietary interest; and (6) proof of irreparable damage. Rule 47(b) applicant lacks item(s) (2), set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The declaration filed with the instant petition does not identify

the citizenship, nor does it provide the mailing address and the residence (if different from the mailing address) of the inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(b).

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 concerning this matter should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MICHAEL J. GROSS
SHOOK, HARDY & BACON L.L.P.
1200 Main Street
Kansas City MO 64105-2118

COPY MAILED

JUL 25 2002

In re Application of: :
David Horne :
Application No. 09/999,734 :
Filed: October 24, 2001 :
Title of Invention: PLASTIC :
RECYCLING SYSTEM AND PROCESS :

OFFICE OF PETITIONS

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(b)

This is a decision on the Declaration, filed July 17, 2002, which is being treated as a Renewed Petition under 37 CFR 1.47(b), to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application for patent on behalf of and as agent for the inventor.

The petition is **granted**.

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

Petitioner has demonstrated that the non-signing inventor refuses to sign the application. Specifically, Petitioner established that the nonsigning inventor, David Horne, refuses to sign the declaration after being presented with a copy of the above-identified application and declaration.

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

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

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

Kenneth D'Alessandro
Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, NV 89449

COPY MAILED

MAY 21 2003

OFFICE OF PETITIONS

In re Application of :
James SCHREMPP et al. :
Application No. 09/999,763 : DECISION GRANTING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. AMC-005CIA :

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

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 16, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

the filing of a grantable petition was unintentional.

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

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

Any inquiries concerning this decision may be directed B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2154 for examination in due course.



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



**FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110**

Paper No. 13
COPY MAILED
JUN 10 2004

OFFICE OF PETITIONS

In re Application of
Susan L. Acton et al
Application No. 09/999,781
Filed: October 31, 2001
Attorney Docket No. 14020-006001/MP199-065P

:
: 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 November 10, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications, and on the petition under 37 CFR 1.78(a)(6) for the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

The instant application was filed on October 31, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

- (1) the surcharge set forth in 37 CFR 1.17(t);
- (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
- (3) the reference to the prior filed provisional application supplied in an application data sheet (ADS) 37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on October 31, 2001, within twelve months of provisional Application No. 60/371,741, which was filed on October 19, 2001, for which priority is claimed. Intermediate Application No. 09/561,759 was filed within twelve months of provisional Application No. 60/171,052 and provisional Application No. 60/132,034. 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-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 1654 for processing the amendment submitted with the instant petition, and for processing and consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.



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

ATTACHMENT : Corrected Filing Receipt



Paper No. 6

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

COPY MAILED

AUG 09 2002

OFFICE OF PETITIONS

In re Application of
Sohler
Application No. 09/999,784
Filed: October 23, 2001
For: PORTABLE DOWNLOAD UNIT
INCLUDING A MEMORY CHIP-TO-CD
BURNER

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

This is in response to the April 22, 2002 petition under 37 C.F.R. §1.47(b).

Petition History

This application was filed on October 23, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on December 19, 2001. The notice requested a signed declaration and set a two month period for replying.

The office received a copy of this petition April 22, 2002. The petition included a request for a two month extension of time, which rendered this petition timely.

THE RULE

37 C.F.R. §1.47

- (a) ...
- (b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

ANALYSIS

A review of the rule above shows that a grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (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.¹

Petitioner has failed to satisfy requirement one (1) above.

Before a refusal to sign can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, the address of the nonsigning inventor's attorney.² No showing of delivery of the application papers to the inventor has been made. Rather, all that has been alleged or shown is that a declaration and assignment papers were mailed to the inventor. Of course, before signing a declaration stating that one has read and understood the contents of the application, it is necessary that one be actually presented with a copy of the declaration to review. The papers in this instance, as delivered to the inventors, could not be truthfully signed because the inventor had not been given an application to review. Accordingly, the inventor has not refused to sign after being given an opportunity to review the application within the meaning of 37 C.F.R. §1.47.

Therefore, *this petition is dismissed.*

Petitioner is given TWO MONTHS from the mailing date of this decision to respond, correcting the above-noted deficiency. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

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

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

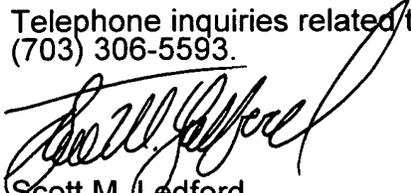
By FAX: (703) 308-6916
 Attn: Special Program Law Office

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at
(703) 306-5593.



Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 8

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OCT 28 2002

OFFICE OF PETITIONS

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

In re Application of
Sohler
Application No. 09/999,784
Filed: October 23, 2001
For: PORTABLE DOWNLOAD UNIT
INCLUDING A MEMORY CHIP-TO-CD
BURNER

:
:
: DECISION GRANTING STATUS
: UNDER 37 C.F.R. §1.47(b)
:
:

This is in response to the October 15, 2002 petition under 37 C.F.R. §1.47(b).

Petition History

This application was filed on October 23, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on December 19, 2001. The notice requested a signed declaration and set a two month period for replying.

The office received a copy of this petition April 22, 2002. The petition included a request for a two month extension of time, which rendered this petition timely.

However, in a decision dated August 9, 2002, the office dismissed that petition due to failure to show that a copy of the application papers had been delivered to the inventor for his review. The decision set a two month period for replying.

This petition contains a certificate of mailing attesting to a timely filing of the petition.

In this petition, counsel states that a copy has been delivered to the inventor. A copy of the cover sheet evidencing such delivery is included. Accordingly, the final outstanding requirement for the successful filing of a petition under the rule has been met. This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the 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(b).

In re Application of Sohler
U. S. Application No. 09/999,784
Page 2

Telephone inquiries regarding this decision should be directed to the undersigned at (703)
305-5593

A handwritten signature in black ink, appearing to read "Scott M. Ledford". The signature is written in a cursive, flowing style with a large initial "S".

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Alan Sohler
14780 S. W. Holly Hill Road
Hillsboro, Oregon 97123

In re Application of
Sohler
Application No. 09/999,784
Filed: October 23, 2001

Dear Mr. Sohler:

You are named as the 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(b) (Rules of Practice in Patent Cases). Should a patent be granted on the application you will be designated therein as the inventor.

As the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel 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 703-306-5593. Requests for information regarding your application should be directed to the File Information Unit at 703-308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification division at 703-308-9726 or 1-800-972-6382 (outside the Washington, D.C. area).

Scott M. Ledford
Sohler Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

COPY MAILED

OCT 28 2002

OFFICE OF PETITIONS



INTEL/BLAKELY
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

COPY MAILED

FEB 13 2008

In re Application of :
Alan W. Sohler :
Application No. 09/999,784 : **DECISION ON PETITION**
Filed: October 23, 2001 :
Attorney Docket No. 042390.P10667 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 15, 2006. A Notice of Abandonment was mailed on September 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of \$1540.00, and (3) a proper statement of unintentional delay.

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

In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that Edwin H. Taylor is authorized to represent the particular party in whose behalf he acts.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received January 7, 2008.


Andrea Smith
Petitions Examiner
Office of Petitions



GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

COPY MAILED

OCT 02 2006

OFFICE OF PETITIONS

In re Application of Fong, et al.	:	
Application No. 09/999,832	:	Decision on Application
Filing Date: October 24, 2001	:	For Patent Term Adjustment
Attorney Docket No. 39780-2630P1C63	:	

This is a decision in response to "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed May 5, 2006. The paper requests correction of the patent term adjustment from four hundred fifty-one (451) days to eight hundred and five (805) days.

The application for patent term adjustment is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight hundred five (805) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 8, 2006, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised of a patent term adjustment to date of 451 days. In response, applicants timely¹ filed the instant request for reconsideration of the patent term adjustment. Applicants request that the patent term adjustment be corrected to 805 days. Applicants assert that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 866 days, not 512 days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 451 days is incorrect. The Office mailed a Notice of Allowance and Fee(s) Due on January 4, 2005, within four months of the filing of applicant's amendment, filed October 19, 2004. However, the Notice was not mailed to the proper correspondence address. On March 11, 2003, applicants filed a change of correspondence address/revocation of power of attorney document. The correspondence was received in the Office, but the requested changes were not entered into Office databases. The Office erred when it mailed the January 4, 2005 Notice to the former correspondence address of record. Accordingly, a letter restarting the period for reply (and re-mailing the notice) was mailed on February 8, 2006.

¹ PALM Records indicate that the Issue Fee payment was received on May 8, 2006.

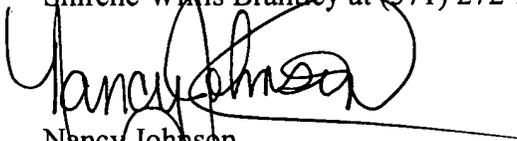
Thus, the Office's delay should be calculating using the February 8, 2006 date. The Office is responsible for an additional 354 days of delay from February 20, 2005 to February 8, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is eight hundred and five (805) days.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 09-0442, as authorized. This fee is required and will not be waived.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment shown on the patent (and in the Issue Notification mailed approximately three weeks prior to issuance) will include any additional patent term accrued pursuant to sections 1.702(a)(4) and 1.703(b).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

A handwritten signature in black ink, appearing to read "Nancy Johnson", written over a horizontal line.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised Pair Screen

PALM INTRANET

PTA Calculations for Application: 09/999832

Application Filing Date:	10/24/2001	PTO Delay (PTO):	512
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	805
PTO Delay Adjustment:	354		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
54	09/29/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	354		
51	02/16/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
50	02/14/2006	CORRECTED NOTICE OF ALLOWANCE			
49	02/10/2006	RECEIPT INTO PUBS			
48	02/08/2006	MAIL CORRECTED NOTICE OF ALLOWANCE			
47	02/07/2006	CORRECTED NOTICE OF ALLOWANCE			
46	02/07/2006	CORRESPONDENCE ADDRESS CHANGE			
45	02/07/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
44	02/06/2006	CORRESPONDENCE ADDRESS CHANGE			
43	02/02/2006	CORRESPONDENCE ADDRESS CHANGE			
42	11/03/2005	RECEIPT INTO PUBS			
41	02/02/2005	SEQUENCE FORWARDED TO PUBS ON TAPE			
40	01/10/2005	EXPORT TO INITIAL DATA CAPTURE			
39	01/21/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
38	01/04/2005	MAIL NOTICE OF ALLOWANCE			
37	01/04/2005	MAIL EXAMINER'S AMENDMENT			
36	01/03/2005	ISSUE REVISION COMPLETED			
35	01/03/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
34	01/03/2005	EXAMINER'S AMENDMENT COMMUNICATION			
33	12/27/2004	NOTICE OF ALLOWABILITY			
32	10/19/2004	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
31	11/03/2004	DATE FORWARDED TO EXAMINER			
30	10/19/2004	RESPONSE AFTER NON-FINAL ACTION		61	25
		REQUEST FOR EXTENSION OF TIME - GRANTED			

29	10/19/2004				
28	10/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
27	10/19/2004	WORKFLOW INCOMING PETITION IFW			
26	10/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	05/19/2004	MAIL NON-FINAL REJECTION	512		-1
24	05/17/2004	NON-FINAL REJECTION			
23	01/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
22	09/15/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
21	08/20/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	05/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
19	09/03/2002	PRELIMINARY AMENDMENT			
18	10/24/2001	PRELIMINARY AMENDMENT			
17	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/30/2002	PRELIMINARY AMENDMENT			
14	12/04/2002	PRELIMINARY AMENDMENT			
13	06/21/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/30/2002	PRELIMINARY AMENDMENT			
10	05/20/2002	CORRESPONDENCE ADDRESS CHANGE			
9	04/17/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	04/13/2002	APPLICATION DISPATCHED FROM OIPE			
7	04/15/2002	APPLICATION IS NOW COMPLETE			
6	03/06/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	01/09/2002	SEQUENCE ERRORS			
4	12/26/2001	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
3	12/14/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	10/24/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	10/24/2001	INITIAL EXAM TEAM NN			

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Paper No. 9

SKJERVEN MORRILL
25 METRO DRIVE
SUITE 700
SAN JOSE, CA 95110

COPY MAILED

MAY 22 2003

OFFICE OF PETITIONS

In re Application of :
Zbigniew Sufleta et al :
Application No. 09/999,838 : DECISION GRANTING PETITION
Filed: October 24, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. M-10968 US :

This is a decision on the petition under 37 CFR 1.137(f), filed May 16, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on October 17, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 28, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (703) 306-5685.

This application is being forwarded to Technology Center AU 2874 to await applicants' response to the non-final Office action mailed March 3, 2003.



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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**BRONCUS TECHNOLOGIES, INC.
BUILDING A8
1400 N. SHORELINE BOULEVARD
MOUNTAIN VIEW, CA 94043**

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of :
Christopher J. Danek :
Application No. 09/999,851 : DECISION ON PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 43571000923 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207

USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Further, the benefit claim must include a proper reference to the prior applications in order for the petition to be granted. The reference to the prior application(s) must include: (1) the *proper* relationship between the nonprovisional applications, and (2) the indication of any intermediate application that is directly claiming the benefit of a provisional application, in order to establish copendency throughout the entire chain of prior applications. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed *copending* nonprovisional application. Additionally, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. *See Sampson v. Ampex Corp.*, 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); *Sticker Indus. Supply Corp. v. Blaw-Knox Co.*, 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); *Hovlid v. Asari*, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). *See also MPEP § 201.11.* In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). In reviewing the chain of applications to which applicant is seeking to claim priority, it does not appear that petitioner has complied with MPEP Section 201.06(d). Therefore, petitioner must review the chain of applications and ensure that compliance with 35 U.S.C. § 120 has been met and, further, must clearly set forth

the relationship of each application to the earlier-filed application (i.e., use “which” and “and” to denote the proper relationship between each prior-filed and intermediate application). The amendment as written is unclear as to the relationship of the subject application to the other prior-filed and intermediate applications set forth in the amendment. Petitioner should also note that the prior-filed application must have a filing date earlier than the date of the application claiming the prior-filed application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment¹ correcting the above-noted deficiencies, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

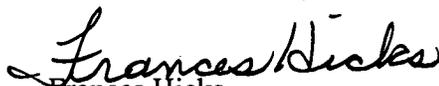
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 2011 South Clark Place
 Crystal Plaza Two Lobby
 Room 1B03
 Arlington, VA 22202

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

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


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

¹ Note 37 CFR 1.121



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**BRONCUS TECHNOLOGIES, INC.
BUILDING A8
1400 N. SHORELINE BOULEVARD
MOUNTAIN VIEW, CA 94043**

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of :
Christopher J. Danek :
Application No. 09/999,851 : DECISION ON PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 43571000923 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 4, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207

USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Further, the benefit claim must include a proper reference to the prior applications in order for the petition to be granted. The reference to the prior application(s) must include: (1) the *proper* relationship between the nonprovisional applications, and (2) the indication of any intermediate application that is directly claiming the benefit of a provisional application, in order to establish copendency throughout the entire chain of prior applications. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed *copending* nonprovisional application. Additionally, where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP Section 201.06(d). In reviewing the chain of applications to which applicant is seeking to claim priority, it does not appear that petitioner has complied with MPEP Section 201.06(d). Therefore, petitioner must review the chain of applications and ensure that compliance with 35 U.S.C. § 120 has been met and, further, must clearly set forth

the relationship of each application to the earlier-filed application (i.e., use “which” and “and” to denote the proper relationship between each prior-filed and intermediate application). The amendment as written is unclear as to the relationship of the subject application to the other prior-filed and intermediate applications set forth in the amendment. Petitioner should also note that the prior-filed application must have a filing date earlier than the date of the application claiming the prior-filed application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment¹ correcting the above-noted deficiencies, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

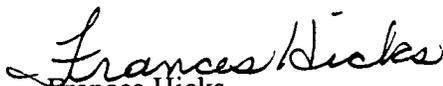
By mail: Mail Stop PETITIONS
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By hand: Customer Window located at:

 2011 South Clark Place
 Crystal Plaza Two Lobby
 Room 1B03
 Arlington, VA 22202

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

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



Frances Hicks

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

¹ Note 37 CFR 1.121



ASTHMATX, INC.
1340 SPACE PARK WAY
MOUNTAIN VIEW, CA 94043

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APR 11 2005

In re Application of
Christopher J. Danek et al
Application No. 09/999,851
Filed: October 25, 2001
Attorney Docket No. 435712000923

:
:
: OFFICE OF PETITIONS
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 27, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application Nos. 09/349,715 and 09/003,750,¹ as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

¹ Office computer database records do not indicate that there is a chain between Application No. 09/349,715 and 09/003,750. Note MPEP 201.06(d).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional 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 (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3739 for appropriate action on the amendment filed October 27, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional applications.



Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt



PERKINS COIE LLP
PATENT SEA
P.O. BOX 1247
SEATTLE WA 98111

COPY MAILED

JAN 02 2008

OFFICE OF PETITIONS

In re Patent No. 7,027,869 : DECISION DISMISSING PETITION
Issue Date: 04/11/2006 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 09/999,851 : REQUEST FOR CERTIFICATE OF
Filed: 10/25/2001 : CORRECTION
Attorney Docket No. 649218022US :

This is a decision on the PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 37 C.F.R. § 1.78(a)(3), filed October 8, 2007, seeking to add a claim for priority under 35 U.S.C. 120 to nonprovisional Application No. 09/095,323, filed June 10, 1998, by way of a certificate of correction.

The petition is **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 25, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent.

Pursuant to MPEP 1481 of the Manual for Patent Examining Procedure, which states, in pertinent part:

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to amend the patent to make reference to a prior copending application, or to correct an incorrect reference to the prior copending application, for benefit claims under 35 U.S.C. 120 and 365(c).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

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

The instant petition does not comply with item (1) above.

In the Certificate of Correction, Application No. 09/296,040, filed April 21, 1999, improperly claims benefit to Application No. 09/436,455, filed November 8, 1999, Application No. 09/535,856, filed March 27, 2000, and Application No. 09/349,715, filed July 9, 1999, as these applications were filed subsequent to the filing date of Application 09/296,040. Furthermore, a review of the record of Application No. 09/296,040 reveals that Application No. 09/296,040 does not claim the benefit of Application No. 09/003,750. Rather, Application No. 09/296,040 only claims the benefit of prior-filed Application No. 09/095,323.

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP 201.11. In addition, every intermediate application must also make a reference to

the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

It appears that petitioners are attempting to claim the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional applications as follows:

This application is a continuation-in-part of Application No. 09/296,040, filed April 21, 1999, now U.S. Patent No. 6,411,852, and a continuation in part of Application No. 09/436,455, filed November 8, 1999, and a continuation-in-part of Application No. 09/535,856, filed March 27, 2000, now U.S. Patent No. 6,634,363, and a continuation-in-part of Application No. 09/349,715, filed July 8, 1999, now U.S. Patent No. 6,488,673, which is a continuation-in-part of Application No. 09/003,750, filed January 7, 1998, now U.S. Patent No. 5,972,026, which is a continuation-in-part of Application No. 08/833,550, filed April 7, 1997, now U.S. Patent No. 6,273,907. Application No. 09/296,040 is also a continuation-in-part of Application No. 09/095,323, filed June 10, 1998.

A review of later-filed Application No. 11/117,905 reveals that petitioners are seeking to claim the benefit of priority from Application No. 09/003,750 to Application No. 08/833,550.

Accordingly, petitioners must first file a renewed petition in the instant application, seeking to add a claim for benefit under 37 U.S.C. 120 to nonprovisional application No. 08/833,550 by way of a Certificate of Correction if petitioners wish to claim the benefit of the Application No. 08/833,550 in later-filed Application No. 11/117,905. Moreover, petitioners must submit a completed Certificate of Correction, setting for the proper chain of applications for which Application No. 09/999,851, claims benefit under 35 U.S.C. 120. The Office reminds petitioners that the application must make a reference to the first (earliest) application and every intermediate application. MPEP 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP 201.06(d).

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions 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



PERKINS COIE LLP
PATENT SEA
P.O. BOX 1247
SEATTLE WA 98111

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Patent No. 7,027,869 : DECISION DISMISSING PETITION
Issue Date: 04/11/2006 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 09/999,851 : REQUEST FOR CERTIFICATE OF
Filed: 10/25/2001 : CORRECTION
Attorney Docket No. 649218022US :

This is a decision on the RENEWED PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 37 C.F.R. § 1.78(a)(3), filed March 3, 2008, seeking to add a claim for priority under 35 U.S.C. 120 to the prior-filed applications by way of a certificate of correction.

The petition is **dismissed**.

A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed October 25, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent.

Pursuant to MPEP 1481 of the Manual for Patent Examining Procedure, which states, in pertinent part:

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to amend the patent to make reference to a prior copending application, or to correct an incorrect reference to the prior copending application, for benefit claims under 35 U.S.C. 120 and 365(c).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

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

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

The instant petition does not comply with item (1) above.

The Certificate of Correction, filed March 3, 2008, improperly incorporates by reference prior-filed Application No. 09/095,323. 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 would not be 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).

If reconsideration of this decision is desired, petitioner must file a renewed petition under 37 CFR § 1.78(a)(3) and a new Certificate of Correction, correcting this error.

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

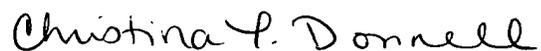
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



PERKINS COIE LLP
PATENT SEA
P.O. BOX 1247
SEATTLE WA 98111

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MAY 01 2008

OFFICE OF PETITIONS

In re Patent No. 7,027,869
Issue Date: 04/11/2006
Application No. 09/999,851
Filed: 10/25/2001
Attorney Docket No. 649218022US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the RENEWED PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 37 C.F.R. § 1.78(a)(3), filed April 14, 2008, seeking to add a claim for priority under 35 U.S.C. 120 to the prior-filed applications by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed on October 25, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

require additional information where there is a question whether the delay was unintentional.

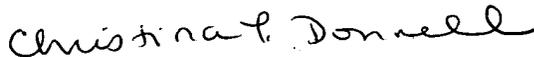
As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications. A determination that applicant is entitled to claim benefit of the prior-filed applications will be made by the Examiner prior to the mailing of a certificate of correction.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).



Christina Tartera Donnell
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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Row 1: 09/999,851, 10/25/2001, 3739, 969, 6492,18022US, 32, 6

CONFIRMATION NO. 8667

CORRECTED FILING RECEIPT



74851
PERKINS COIE LLP
PATENT SEA
P.O. BOX 1247
SEATTLE, WA 98111

Date Mailed: 04/30/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please 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)

Christopher J. Danek, Santa Clara, CA;
Bryan Loomas, Los Gatos, CA;
Thomas Keast, Mountain View, CA;
Michael D. Laufer, Menlo Park, CA;

Power of Attorney: The patent practitioners associated with Customer Number 74851

Domestic Priority data as claimed by applicant

This application is a CIP of 09/296,040 04/21/1999 PAT 6,411,852
which is a CIP of 09/095,323 06/10/1998
This application 09/999,851
is a CIP of 09/436,455 11/08/1999
and is a CIP of 09/535,856 03/27/2000 PAT 6,634,363
and is a CIP of 09/349,715 07/08/1999 PAT 6,488,673
which is a CIP of 09/260,401 03/01/1999 PAT 6,283,988
which is a CIP of 09/003,750 01/07/1998 PAT 5,972,026

Foreign Applications

If Required, Foreign Filing License Granted: 12/19/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 09/999,851

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHOD FOR TREATING AN ASTHMA ATTACK

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

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

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

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

NOT GRANTED

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



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Paper No. 6

McCormick, Paulding & Huber
City Place II
185 Asylum Street
Hartford, CT 06103-3402

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JAN 07 2004

OFFICE OF PETITIONS

In re Application of

Ngo, et al.

Application No. 09/999,852

DECISION ON PETITION

Filed: October 31, 2001

Attorney Docket No. 5160-09

This is a decision on the "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 and MPEP 711.03(C), or in the Alternative, Petition to Revive Abandoned Application Due to Unavoidable Delay under 37 CFR 1.137(a), or in the alternative, Petition to revive Abandoned Application Due to Unintentional Delay under 37 CFR 1.137(b) in the Alternative Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

The petition to withdraw the holding of abandonment is granted.

The petitions under 37 CFR 1.137(a) and(b) are moot.

This application was held abandoned on February 18, 2001, after no reply was received to the Notice to File Corrected Application Papers mailed December 18, 2001. The notice set forth a shortened period for reply of two months from its mailing date and required the submission of substitute drawings. No response was believed to have been received and a Notice of Abandonment was mailed on November 6, 2003. The instant petition was filed on November 21, 2003, in which petitioner maintains that a timely response was filed to the December 18, 2001, notice. The petition was accompanied by an Office date stamped postcard that acknowledged receipt of substitute drawings on February 6, 2002.

As the Office has acknowledged having received the reply to the December 18, 2001, notice, the holding of abandonment was improperly imposed and is withdrawn. The petitions under 37 CFR 1.137(a) and (b) are rendered moot by this decision as there is no remedy that can be provided pursuant to 37 CFR 1.137(a) or (b) in light of the withdrawal of the holding of abandonment.

Deposit account 13-0235 will be refunded \$110.00 for the fee for the petition under 37 CFR 1.137(a).

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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DM 07-03

Paper No. 7

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	DECISION ON PETITION
Application No. 09/999,878	:	UNDER 37 CFR 1.137(f)
Filed: 24 October, 2001	:	
Atty Docket No. M-10967 US	:	

This is a decision on the petition under 37 CFR 1.137(f), filed on 19 May, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;¹ (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition is in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the

¹The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date, 6 November, 2003, accompanies this decision on petition.

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

Telephone inquiries specifically concerning this decision be directed to the undersigned at 703.308.6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attch: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

Williams, Morgan and Amerson, P. C.
7676 Hillmont
Suite 250
Houston, TX 77040

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NOV 19 2003

OFFICE OF PETITIONS

In re Application of :
Brian C. Barnes, et al. :
Application No. 09/999,881 : **DECISION GRANTING PETITION**
Filed: October 31, 2001 : **UNDER 37 CFR 1.137(b)**
Attorney Docket No. 2000.056800/TT4088 :

This is a decision on the petition, filed November 6, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 9, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

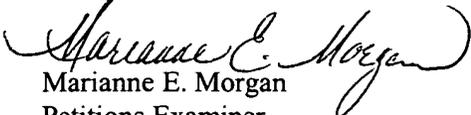
The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 24, 2004 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2131 for examination in due course.


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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ANTONELLI TERRY STOUT & KRAUS
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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JUN 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter J. Kight et al	:	
Application No. 09/999,903	:	DECISION ON PETITION
Filed: December 26, 2001	:	TO WITHDRAW
Attorney Docket No. 23952-0059	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Alfred A. Stadnicki and all the attorneys/agents of record associated with customer No. 020457 have been revoked by the assignee of the patent application on November 21, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3624.

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


Denise Bothner
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309



UNITED STATES PATENT AND TRADEMARK OFFICE

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

William M. Lee, Jr.
Lee, Mann, Smith, McWilliams, Sweeney & Ohlson
P. O. Box 2786
Chicago, IL 60690-2786

In re Application of
Schuler, Eleanor

Filed: 11/20/01

Application No. 10/000005

Attorney Docket No. 0607-1006

For: Device and method to record, store,
and broadcast specific brain waveforms to
modulate body organ functioning

:
: LETTER REGARDING
: MERGING OF APPLICATION
: FILES
:
:

This is a response to the requests filed on 11/20/01, in above-identified application, requesting that the file of the above-identified application and the file that contains the later-received application papers be merged. The request is **granted**.

Applicant is hereby notified that the file of the above-identified application and the file that contains the later-received application papers will be **merged**.

All papers in the file that contains the later-received papers will be placed in application No. 10/000005. All future correspondence concerning the application should be directed to this application number.

Application No. 09/991274, assigned to the file that contains the later-received papers, will no longer be active.

The filing fee paid in the file that contains the later-received papers will be refunded.

All notices mailed by the Office in the file that contains the later-received papers are hereby vacated.

2/27/02

Telephone inquiries concerning this communication should be directed to the Customer Service Center, Office of Initial Patent Examination Division, at (703) 308-1202.

Debra Dallon 8/20/03



UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 24 2004

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

William M. Lee, Jr.
Barnes & Thornburg
P.O. Box 2786
Chicago, IL 60690-2786

Paper No.

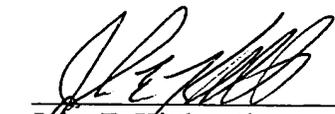
In re Application of	:	DECISION ON PETITION
Eleanor Schuler et al	:	TO WITHDRAW
Serial No. : 10/000,005	:	HOLDING OF
Filed : November 20, 2001	:	ABANDONMENT
For : Method to Record, Store and Broadcast Specific	:	
Brain Waveforms to Modulate Body Organ	:	
Functioning	:	

This is a decision on petitioner's request filed March 5, 2004 (second request filed July 15, 2004), requesting review of the holding of abandonment mailed February 11, 2004, for failure to file a response to the Office action mailed February 28, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped receipt dated June 2, 2003 (certificate of mailing dated May 28, 2003) as evidence of the timely filing of a response to the Office action of February 28, 2003.

In view of the above, the Notice of Abandonment mailed February 11, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner for consideration of the response filed June 2, 2003 as well as the amendment filed September 5, 2003.

Summary: Holding of Abandonment Withdrawn.



 John E. Kittle, Director
 Groups 3730 and 3760
 Phone: (703) 308-0873

ak/09/16/04



UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant : Seung Taek Oh : DECISION ON REQUEST FOR
Patent Number : 6613397 : RECALCULATION of PATENT
Issue Date : 09/02/2003 : TERM ADJUSTMENT IN VIEW
Application No : 10/000,013 : OF WYETH
Filed : 12/04/2001 :
:
:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b) (2) (A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b) (4) (A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6880272 :
Issue Date: April 19,2005 :
Application No. 10000027 :DECISION GRANTING PETITION
Filed: January 22,2002 :UNDER 37 CFR 1.378(c)
Attorney Docket No. AMSP51552 :

This is a decision on the electronic petition, filed July 20,2009 ,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 July 20,2009 .
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.



Paper No. 4

Royal W. Craig
Law Offices of Royal W. Craig
10 North Calvert Street
Suite 153
Baltimore, MD 21202

COPY MAILED

MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Andrew Ishak
Application No. 10/000,062
Filed: November 2, 2001
Attorney Docket No. ISHAK-PA-1

:
:
: DECISION ON PETITION
:
:

This is a decision on the "Petition to Rescind a Notice of Omitted Item(s) in a Nonprovisional Application under 37 C.F.R. §1.181," filed March 5, 2002, which is properly treated as a petition under §1.53(e)(2)¹.

Application papers in the above-identified application were filed on November 2, 2001. However, on January 11, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, Fig. 2A described in the specification appeared to have been omitted from the application.

In response, applicant timely filed the instant petition. Petitioner asserts, in essence, that Fig. 2A was among the papers filed on November 2, 2001 and that the figure's omission from the application file must be due to outside interference in transit to the Customer Service Center of the Initial Patent Examination Division. In support thereof, petitioner submitted *inter alia* a copy of their return postcard receipt and a copy of the drawings as they maintain they were filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on November 2, 2001; 2) it specifically identifies the items being filed, including "12 pages of drawing" and 3) it lacks any annotation of nonreceipt of any item denoted on the

¹ (e) Failure to meet filing date requirements.

(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.

postcard. Thus, petitioner has shown that the items denoted, including the 12 pages of drawings, were filed on November 2, 2001.

The application papers already considered received in the Office on November 2, 2001, were reviewed along with the missing figure submitted on petition. These papers together constitute the items described on the postcard receipt as 12 pages of drawings. Petitioner has shown that Fig. 2A was among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 03-3565, as authorized.

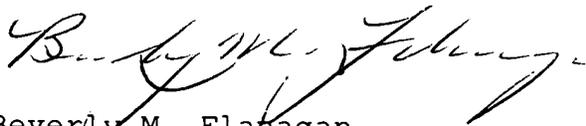
The change of correspondence address, submitted on petition, is acknowledged and made of record.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- processing with a filing date of November 2, 2001, using the application papers received in the Office on that date and Fig. 2A resubmitted on petition filed March 5, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.



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



JGJr: 06-06

Paper No: ___

MATTINGLY, STANGER,
MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED

JUL 24 2007

OFFICE OF PETITIONS

In re Patent No. 6,921,515 :
Issue Date: 26 July, 2005 :
Application No. 10/000,083 :
Filed: 4 December, 2001 :
Attorney Docket No.: (None)/NIP-155-02 :

ON PETITION

This is a decision on the petition filed on 5 April, 2006, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.¹

The Office regrets the delay in addressing the instant matter, however, while a decision previously was prepared, signed and sent for mailing, it now appears that mailing did not occur.

The petition is **DISMISSED**.

NOTES:

- (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time

¹ The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).
[47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

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. §1.182."

- (2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has not indicated that the documents were not received; that once received they were misplaced, lost, destroyed or the like.

Petitioner should, through a minimum of a declaration over signature and registration number, represent to the Office that Petitioner is/remains the party in interest and the factual basis and reasoning for the relief requested.

CONCLUSION

Because it appears that Petitioner has not satisfied the evidentiary burdens, the petition as considered under 37 C.F.R. §1.182 hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:²

By mail: Commissioner for Patents³
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
 (571) 273-8300
 ATTN.: Office of Petitions

² On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information, see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf>.)

³ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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. §1.2⁴) 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

⁴ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JGJr:11-07

MATTINGLY, STANGER,
MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,921,515 :
Issue Date 26 July, 2005 :
Application No. 10/000,083 : **DECISION**
Filed: 4 December, 2001 :
Attorney Docket No. (None)/NIP-155-02 :

This is a decision on the petition filed on 9 August, 2007, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.¹

The Office regrets the delay in addressing the instant matter, however, while a decision previously was prepared, signed and sent for mailing, it now appears that mailing did not occur.

The petition is **GRANTED**.

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

In the original petition, Petitioner failed to indicate that the documents were not received; that once received they were misplaced, lost, destroyed or the like, and so the petition was dismissed on 24 July, 2007.

¹ The regulations at 37 C.F.R. §1.182 provide:

§ 1.182 Questions not specifically provided for.

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Petitioner has declared that the patent was lost in shipment from Petitioner to the foreign associate, and has demonstrated that the petition fee has been paid.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Krystal Paige, OPPD, South Tower 8C29, Phone (703) 308-9250, ext 139; FAX (571) 270-9937.

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. §1.2⁴) 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

cc: Ms. Krystal Paige, ST/8C29 FAX: (571) 270-9937

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UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JIGr: 11-07

MATTINGLY, STANGER,
MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

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NOV 19 2007

OFFICE OF PETITIONS

In re Patent No. 6,921,515 :
Issue Date 26 July, 2005 :
Application No. 10/000,083 : DECISION
Filed: 4 December, 2001 :
Attorney Docket No. (None)/NIP-155-02 :

RECEIVED
DEC 04 2007
OFFICE OF PETITIONS

This is a decision on the petition filed on 9 August, 2007, requesting issuance of duplicate Letters Patent for the above-identified patent/application under 37 C.F.R. §1.182.¹

The Office regrets the delay in addressing the instant matter, however, while a decision previously was prepared, signed and sent for mailing, it now appears that mailing did not occur.

The petition is **GRANTED**.

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

In the original petition, Petitioner failed to indicate that the documents were not received; that once received they were misplaced, lost, destroyed or the like, and so the petition was dismissed on 24 July, 2007.

¹ The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Petitioner has declared that the patent was lost in shipment from Petitioner to the foreign associate, and has demonstrated that the petition fee has been paid.

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ms. Krystal Paige, OPPD, South Tower 8C29, Phone (703) 308-9250, ext 139; FAX (571) 270-9937.

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. §1.2⁴) 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

cc: Ms. Krystal Paige, ST/8C29 FAX: (571) 270-9937

⁴ 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.



#4
1/22/03

JAN 23 2003

Paper No. 4

LARSON & LARSON
11199-69th Street N.
Largo, FL 33773-5504

In re Application of: Larry G. COVEY)
Application No. 10/000,118)
Filed: October 31, 2001)
For: REMOTELY PROGRAMMABLE)
VERIFIABLE INTELLIGENT)
MESSAGE DISPLAY SYSTEM AND)
METHOD OF OPERATION)

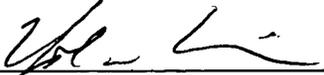
**DECISION ON REQUEST FOR
WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed December 26, 2002.

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

The request is **GRANTED**.

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



~~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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TRIMBLE NAVIGATION LIMITED
C/O WAGNER BLECHER
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Paresh L. NAGDA, et al :
Application No. 10/000,121 : **DECISION ON PETITION**
Filed: October 31, 2001 :
Attorney Docket No. TRMB-2097 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, 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, October 2, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1540; and (3) an adequate statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3629 for appropriate action by the Examiner in the normal course of business on the reply received May 20, 2008.

A handwritten signature in black ink, appearing to read "Thurman Page". The signature is fluid and cursive, with a large initial "T" and "P".

Thurman Page
Petitions Examiner
Office of Petitions



JGJR.: 09-07

Paper No: __

COPY MAILED

SEP 10 2007

OFFICE OF PETITIONS

DUANE MORRIS LLP
PO BOX 5203
PRINCETON NJ 08543-5203

In re Application of	:	
Barret, et al.	:	DECISION
Application No.: 10/000,143	:	
Filing Date: 23 October, 2001	:	
Attorney Docket No. BARRET-1	:	

This is a decision on the petition filed on 9 January, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

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

BACKGROUND

The record reflects that:

- the instant application was filed on 23 October, 2001, and therewith listed a correspondence address of 100 College Road West/Ste. 100, Princeton, New Jersey 08540, and because the oath/declaration was unsigned/un-executed, the Customer

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

Number (28581) thereon apparently was not used by the Office to reference the correspondence address at that time, and all mailings instead were directed to the street address indicated above;

- an executed oath/declaration was filed on 1 March, 2002, however, Petitioner did not then Notice the Office particularly as to the association of the Customer Number with the application, and the Office does not seem to have made that association sua sponte, and the application continued in prosecution thereafter with the street address remaining as the correspondence address;
- over the years (23 October, 2001, through 26 September, 2005). some half-dozen Office actions were mailed to the street address and some half dozen responses were filed by Petitioner to those Office actions, and at no time did Petitioner Notice the Office as to the erroneous mailing address or complain of non-receipt;
- Petitioner avers the filing of a data-change on 4 October, 2004, instructing the Office as to a change of address as associated with the Petitioner's Customer Number, but, as indicated above, because it appears that the instant application may not have been initially associated with Petitioner's Customer Number, that change appears not to have occurred in the instant application—and, as indicated above, another year of Office actions directed to the street address and Petitioner's reply thereto followed, and at no time did Petitioner Notice the Office as to the problem or error;
- thereafter, Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 28 November, 2005, with reply due under a non-extendable deadline on or before 28 February, 2006;
- the application went abandoned by operation of law after midnight 28 February, 2006;
- the Office mailed a Notice of Abandonment on 9 November, 2006;
- on 9 January, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Notice of Allowance/Allowability and Fees Due, and made the statements and showings required (see the Manual of Patent Examining Procedure provisions discussed below) with documentation included.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

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

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

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

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

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

Allegations as to the Request to Withdraw the Holding of Abandonment

³ 35 U.S.C. §133 provides:

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

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

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

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

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

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

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

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁹

The commentary at MPEP §711.03(c) provides:

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of

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

Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

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

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

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the 9 November 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 2100 for further processing, including the re-mailing of the Notice of Allowance/Allowability and Fees Due with a new period of reply, 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. §1.2¹⁰) 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

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

§1.2 Business to be transacted in writing.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO TX 75024

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DEC 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,039,720 :
Alfieri et al. :
Issue Date: May 2, 2006 :
Application No. 10/000,191 : DECISION ON REQUEST FOR
Filed: October 19, 2001 : CERTIFICATE OF CORRECTION
Attorney Docket No. P63978-USP:

This letter is in response to the "37 CFR 1.322 & 37 CFR 1.323 REQUEST FOR CERTIFICATE OF CORRECTION FOR USPTO AND/OR APPLICANT MISTAKE," filed November 20, 2008, requesting correction of the patent term adjustment indicated in the patent. With respect to the patent term adjustment, patentee requests the Office to delete "611" and insert -733-.

The request is DISMISSED.

Patentee is given **THIRTY (30) DAYS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

On May 2, 2006, the above-identified application matured into U.S. Patent No. 7,039,720 with a revised patent term adjustment of 611 days. The instant request was filed on November 20, 2008, more than two years after issuance of the patent.

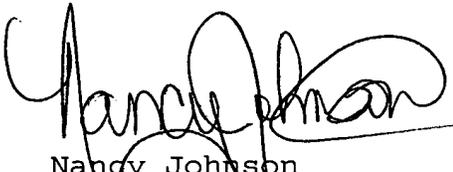
Issuance of a certificate of correction under § 1.322 is permitted if an error in the patent is shown. No error in the patent has been shown. The patent term adjustment indicated in the patent reflects the patent term adjustment shown in the PALM (and presumably PAIR) system for this application. Accordingly, no certificate of correction will be issued to change the PTA under 37 C.F.R. § 1.322 (or § 1.323).

Patentees are advised that the filing of a certificate of correction is not an alternative to the procedure set forth in 37 CFR § 1.705. Patentees contesting the underlying determination, rather than an alleged printing error, have to avail themselves of the time frames stated in § 1.705(d). Moreover, § 1.705(d), states "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within 2 months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Thus, the request must be timely filed and must include payment of the required fee.

This instant request did not include the required fee for consideration pursuant to 37 CFR 1.705(d). More importantly, this request was made more than 2 years after the issuance of the patent. As such, even with the required fee, it would be appropriate to dismiss this request as untimely filed.

The Certificates of Correction branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction branch for consideration of the accompanying request for correction of errors in the patent (in Column 8, Line 15 as alleged in the request for Certificate of Correction filed November 20, 2008).

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 16 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER**

Proskauer Rose LLP
Patent Department
1585 Broadway
New York, NY 10036-8299

In re Application of
Karl-Werner Dorr, et al.
Application No. 10/000,283
Filed: November 15, 2001
For: THERMAL INSULATING SHEET PANEL WITH
PHOTOVOLTAIC ELEMENT FOR A ROOF
COVERING OR WALL CLADDING

**DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT**

This is a decision on applicants' petition to withdrawal the holding of abandonment filed on June 14, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

- Postcard receipt dated January 12, 2004.
- USPTO return facsimile receipt dated _____, which references the application by serial number and the amendment that was filed on that date.
- Certificate of Mailing/Transmission signed on _____ and supported by a statement under 37 C.F.R. 1.8(b)(3).
- Hand Delivery Receipt of the specific documents submitted dated _____.
- Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.
- Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

**STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600**

SNM/rwg: 12/02/04

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



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



Paper No.

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington, DC 20005-3315

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FEB 11 2005

OFFICE OF PETITIONS

In re Patent No. 6,797,111
Hongoh et al.
Issue Date: September 28, 2004
Application No. 10/000,312
Filed: December 4, 2001
Attorney Docket No. 08372.0005

:
: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "APPLICATION FOR REINSTATEMENT OF PATENT TERM ADJUSTMENT- POST GRANT," filed October 19, 2004. Patentees request that the patent term adjustment indicated in the patent be corrected from one hundred sixty-eight (168) 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 Patent Term Adjustment of two hundred thirty-six (**236**) days.

On September 28, 2004, the above-identified application matured into U.S. Patent No. 6,797,111. The instant request for reconsideration filed October 19, 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 168 days. Citing the OG Notice of June 26, 2001 (1247 OG 111), Patentees state that the initial determination of patent term adjustment of 236 days should not have been reduced by 68 days for the submission of a "Miscellaneous Incoming Paper" after the Notice of Allowance, as the paper was a Comments on Statement of Reasons for Allowance. Patentees state that the patent is not subject to a terminal disclaimer.

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 confirms that the reduction of 68 days was based on the filing after allowance of a "Comments on Statement of Reasons for Allowance" filed July 23, 2004. (It is specifically noted that no formal drawings were required with the Notice of Allowability.) Thus, it is concluded that the patent term adjustment should not have been reduced by 68 days.

In view thereof, the patent term adjustment indicated in the patent should be 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 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
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Alexandria, VA 22313-1450
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**KENYON & KENYON
1500 K STREET NW
SUITE 700
WASHINGTON DC 20005**

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NOV 03 2005

OFFICE OF PETITIONS

In re Application of :
Shanbhogue, Vedvyas :
Application No. 10/000,335 :
Filed: December 4, 2001 :
Attorney Docket No. 2207/13056 :

ON PETITION

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The Notice of Appeal filed October 3, 2005, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief accompanied by the fee required by law runs from the date of this decision.

This matter is being referred to Technology Center 2100 for further processing.

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


Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/20/2006

TO SPE OF : ART UNIT 2800(2133)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,934,901

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

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-922

Palm location 7580 - Tel. No. 305-8309

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

Okay to enter changes to claim 19, dependency from 18 to 17 as requested in C of C?

Thank You For Your Assistance

Ernest C. White, LIE305-8339
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:

ok ju 8/1/06

ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2138

Art Unit

**UNITED STATES PATENT AND
TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO. : US 6,934,901 B2 Page 1 of 1
DATED : 23 August 2005
INVENTOR(S) : Amit DAGAN, et al.

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

<u>Column</u>	<u>Line</u>	
13	43	Change "claim 18" to --claim 17--..

MAILING ADDRESS OF SENDER:

Patent No.: 6,934,901 B2

Cassandra T. Swain
KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005

JAN 11 2006



ofc

PATENT
DOCKET NO.: 2207/12613

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : Amit DAGAN, et al.
SERIAL NO. : 10/000,341
FILED : 04 December 2001
FOR : BLOCK INTERLEAVER METHOD AND SYSTEM
Patent No. : 6,934,901 B2 Issued 23 August 2005

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Alexandria, VA 22314

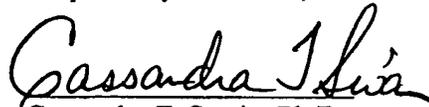
**REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 C.F.R. § 1.322**

SIR:

It is respectfully requested that the enclosed certificate of correction be issued for the above Patent under authority of 35 USC §354.

The changes represent correction of an error which occurred during printing of the patent and was not the fault of the applicants. Therefore, no fee is required.

Respectfully submitted,


Cassandra T. Swain, Ph.D.
(Reg. No. 48,361)

Dated: 06 January 2006

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005

Tel: (202) 220-4200
Fax: (202) 220-4201

JAN 11 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/30/06

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction on Patent No.: 6982804

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Since the columns that should have been placed at the beginning of the patent were placed at the end of the patent, before the claims, the changes have been approved.

Ed Miller

2625

SPE

Art Unit



Paper No. 5

WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

COPY MAILED

SEP 19 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dan Duroj :
Application No. 10/000,387 :
Filed: 30 November, 2001 :
Attorney Docket No. 525-022-003 :

This is a decision on the petition under 37 CFR 1.182, filed 6 May, 2002, to correct the full name of the fifth named inventor.

The petition is **GRANTED**.

The first name of the sole inventor will be changed from "DANI" to -- **DAN** --.

Office PALM records have been corrected to reflect the correct name of the sole inventor. A corrected Filing Receipt is enclosed for petitioner's convenience.

As a petition fee of \$130.00 is required, counsel's deposit account, No. 23-0442, has been charged as authorized in the preliminary amendment filed on 19 February, 2002.

Thereafter, the file will be forwarded to Technology Center 2100 for examination in due course.

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

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

Encl: Corr. Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thomas, Kayden, Horstemeyer & Risley,
LLP
100 Galleria Parkway, NW
Suite 1750
Atlanta, GA 30339-5948

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of: :
Thomas D. Petite :
Application No. 10/000,477 :
Filed: October 24, 2001 :
For: SYSTEM AND METHOD FOR :
TRANSMITTING AN EMERGENCY MESSAGE :
OVER AN INTEGRATED WIRELESS NETWORK :

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on September 27, 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 of the attorneys/agents of record listed in the Request are withdrawn.

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


Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Douglas D. Salyers, Esq.
Bank of America Plaza
600 Peachtree Street, N.E. Suite 5200
Atlanta, Georgia 30308-2216



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SEP 06 2007

OFFICE OF PETITIONS

**TROUTMAN SANDERS LLP
600 PEACHTREE STREET, NE
ATLANTA GA 30308**

In re Application of :
Thomas D. PETITE :
Application No. 10/000,477 : **ON PETITION**
Filed: October 24, 2001 :
Attorney Docket No. STAT1200 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed March 29, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 30, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to a non-final Office action; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of March 29, 2006 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2617 for appropriate action on the concurrently filed amendment.



David Bucci
Petitions Examiner
Office of Petitions

cc: Thomas David Petite
Overlook I Building Suite 660
2849 Paces Ferry Road
Atlanta, GA 30308



Paper No. 10

TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-1922

OCT 23 2003

In re Application of
Jigish D. Trivedi et al.
Application No. 10/000,479
Filed: October 24, 2001
Attorney Docket No. 3439.4US (97-936.3)

DECISION ON PETITION

This is a decision on the petition, filed August 18, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of November 5, 2002. A Notice of Abandonment was mailed on August 13, 2003.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard receipt which acknowledges receipt of a response along with a Supplemental Information Disclosure Statement, a form PTO/SB/08A, and copies of the cited references by the US Patent and Trademark Office (USPTO) on February 10, 2003.

The review of the application file reveals that the IDS, the form PTO/SB/08A and copies of the cited references were received and matched therewith. However, the response was not associated with the application file. A copy of the papers received in the USPTO on February 10, 2003 was submitted with the petition.

M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO but lost after receipt thereof. The application was not abandoned in fact.

For above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response.


Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components
(703) 308-7502



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

COPY MAILED

In re Application of :
Bejanin et al. :
Patent No. 6,794,363 :
Issued: September 21, 2004 :
Application No. 10/000,489 :
Filed: November 14, 2001 : ON PETITION
Attorney Docket Number: 91.US6.DIV :

SEP 15 2005
OFFICE OF PETITIONS

This is a decision on the Petition for Duplicate Letters Patent, filed July 7, 2005. The petition is properly treated under 37 CFR 1.182.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182", and be directed to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner avers non-receipt of the letters patent. In support of this assertion, Petitioner states that after a thorough review of all files and records, it does not appear that the Letters Patent was received. No copies of the file jacket or docket record where the non-received Letters Patent would have been entered had it been received and docketed, have been provided.

It is initially noted that a petition for a duplicate Letters Patent may be granted in two situations. The first is where non-receipt of the original Letters Patent is alleged. No fee is required in this instance; however, the showing required is as outlined *infra*.

Applicable law

The showing required for receipt of a duplicate Letters Patent, with no fee, due to non-receipt, is the same as that set forth in the Manual for Patent Examining Procedure "MPEP", section 711.03(c), under the subheading "Petitions to Withdraw the Holding of Abandonment", which provides:

An allegation that the Office communication (Letters Patent) was not received may be considered as a petition for the withdrawal of the holding of 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 practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

Alternatively, a fee of \$400.00 is appropriate where non-receipt of the Letters Patent is not alleged. Petitioner must state the reason the duplicate Letters Patent is requested; be the proper party in interest, i.e., the attorney of record, the applicant(s) or the assignee(s), and pay the petition fee.

In this instance, Petitioner has alleged non-receipt of the Letters Patent. Accordingly, Petitioner must provide a copy of the file jacket or docket record where the non-received Letters Patent would have been entered had it been received and docketed.

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

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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
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

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

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of :
Bejanin et al. :
Patent No. 6,794,363 :
Issued: September 21, 2004 :
Application No. 10/000,489 :
Filed: November 14, 2001 : ON PETITION
Attorney Docket Number: 91.US6.DIV :

This is a decision on the Renewed Request Under 37 CFR 1.182,
filed September 29, 2005.

The Petition is **granted**.

The Publishing Division is directed to issue a duplicate Letters
Patent. Any questions concerning issuance of the duplicate
Letters Patent should be directed to Kimberly Terrell at (703)
308-9250.

A copy of this decision is being forwarded to Publishing
Division for issuance of a duplicate Letters Patent. The patent
file is being forwarded to the Files Repository.

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


Derek L. Woods
Attorney
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor, Room C-41 (FAX
703-746-4658)



Paper No. 5

EAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

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APR 22 2002

OFFICE OF PETITIONS

In re Application of :
Kong et al. :
Application No. 10/000,497 :
Filed: October 31, 2001 :
Attorney Docket No. SYCS-061 :

ON PETITION

This is a decision on the petition filed January 29, 2002, to accord the above-identified application a filing date of October 31, 2001, instead of October 30, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of October 31, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of October 31, 2001.

A fee is not required for the submission of a petition under 37 CFR 1.10. Therefore, the fee of \$130 submitted for the instant petition will be credited to petitioner's deposit account.

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



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



MOTOROLA INC.
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenneth B. Riordan et al :
Application No. 10/000,551 :
Filed: October 31, 2001 :
Attorney Docket No. CS11415 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 11, 2008, 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 12, 2008.

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

This matter is being forwarded to Technology Center AU 2617 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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MAY 12 2004

Mailed:

spg
Paper Number _____

In re application of :
Brigitta Otto et al. :
Serial No. 10/000,595 :
Filed: October 19, 2001 :
For: COMPOSITION AND PROCESS FOR MANUFACTURING :
POLYESTER :

DECISION ON
PETITION

This is a response to the PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181(a) filed November 20, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 29, 2003, be withdrawn since the applicant did timely file a proper response in the form of Terminal Disclaimer on March 28, 2003.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the USPTO application file reveals that applicant's response, TERMINAL DISCLAIMER, was properly filed on March 28, 2003 and received in the Patent and Trademark Office in view of the fact that the originally filed paper having a date stamp of March 31, 2003 thereon have been located in the USPTO application file. The papers filed March 28, 2003 failed to request a one month extension of time to file the TERMINAL DISCLAIMER but the UTILITY PATENT APPLICATION TRANSMITTAL filed October 19, 2001 provides the general authorization to charge any extension of time which may be necessary to Deposit Account 13-2490. In view of this authorization, applicants should have been charged the fee of \$110.00 for a one month extension of time and the examiner should have considered the Terminal Disclaimer as a proper reply to the Office letter mailed November 29, 2002

Therefore, in view of the fact that applicants deposit account should have been charged the fee of \$110.00, for a one month extension of time, any holding of abandonment is hereby vacated, and the application has been returned to pending status. The application shall be forwarded to the examiner for charging of a one month extension of time to file a reply to the Office letter mailed November 29, 2002 and entry and consideration of TERMINAL DISCLAIMER filed March 28, 2003 as a proper reply to the Office letter of November 29, 2002.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael S. Greenfield
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago IL 60606



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

In re Application of ALBAL, NANDAKISHORE ET AL. :

Application No. 10/000,598	: DECISION GRANTING PETITION
Filed: October 24, 2001	: TO REMAIL AN OFFICE
Attorney Docket No.	: COMMUNICATION AND RESTART
	: PERIOD FOR REPLY

This is a decision on the petition filed on March 21, 2002, requesting that the Office communication mailed on December 31, 2001 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on March 19, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the Office communication in question will be remailed and the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication.

A handwritten signature in cursive script that reads "Kevin Little".

Kevin Little
Office of Initial Patent Examination
(703) 308-1863



EDWARDS & ANGELL, LLP
130 WATER STREET
BOSTON MA 02109-4280

Paper No. 6

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AUG 06 2002

OFFICE OF PETITIONS

In re Application of	:	
Steve Ore-Yang	:	
Application No. 10/000,629	:	DECISION GRANTING PETITION
Filed: 31 October, 2001	:	
Atty Docket No. 71131/56669	:	

This is a decision on the paper styled "Response to Notice of Omitted Items in a Nonprovisional Application" which is treated as a petition under 37 CFR 1.53, filed on 1 February, 2002, requesting that the above-identified application, requesting that the above-identified application, including Figures 4C and 4D, be accorded a filing date of 31 October, 2001.

The petition is granted.

The instant application was filed in the U.S. Patent and Trademark Office on 31 October, 2001. On 19 December, 2001, the Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application" (Notice) stating that Figures 4C and 4D described in the specification were missing. The Notice set a two month nonextendable period for reply.

On 1 February, 2002, petitioner filed the present petition asserting that Figures 4C and 4D were present with the application papers filed on 31 October, 2001. In support, petitioners supplied a copy of their itemized postcard receipt. The postcard receipt identifies the papers filed by inventor's name, invention title, and attorney docket number, and itemizes the filing of, *inter alia*, nine sheets of drawings. It is noted that the postcard receipt bears an Office-date stamp of 11/01/01 referencing the present application number on the reverse side. However, a review of the official file reveals that there is an additional copy, received on 1 February, 2002, of petitioner's postcard receipt located therein, accompanied by an Express Mail label with a "date-in" of 10/31/01. On the copy of the reverse of the postcard located in the official file, the Office-date stamp of 11/01/01 has been crossed out, and an Office-date stamp dated 10/31/01 has been placed thereon. It is also noted that

the same Express Mail mailing number located on the Express Mail label in the official file has also been placed on the front of petitioner's itemized postcard supplied with the present petition. As such, the itemized postcard receipt serves as evidence that the application papers itemized therein were received on 10/31/01. Petitioners request that the application, including Figures 4C and 4D, be accorded a filing date of 31 October, 2001.

A review of the application file located in the Official file reveals that seven (7) sheets of drawings containing Figures 1, 2, 3A-C, and 4A-B are present among the application papers filed 14 June, 2000. However, the evidence is convincing that the application papers deposited on 31 October, 2001, included nine (9) sheets of drawings and that the sheets of drawings containing Figures 4C and 4D were subsequently misplaced in the Office. Therefore, the application, including the two (2) sheets of drawing containing Figures 4C and 4D as described in the specification, is entitled to a filing date of 31 October, 2001.

The "Notice" mailed on 16 November, 2001, is vacated. No petition fee is due and none has been charged.

The application will be processed and examined using the application papers filed on 31 October, 2001, and the copy of Figures 4C and 4D of the drawings supplied on 1 February, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 31 October, 2001, using the application papers filed on 31 October, 2001, and the two (2) sheets of drawing containing Figures 4C and 4D supplied on 1 February, 2002, and for an indication on the bib-data sheet that nine (9) sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703-308-6918.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

DORITY & MANNING, P.A.
ONE LIBERTY SQUARE
55 BEATTIE PLACE, SUITE 1600
GREENVILLE, SC 29601

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JUN 09 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Gregory John Rajala, et al. :
Application No. 10/000,640 :
Filed: November 15, 2001 :
Attorney Docket No. 11395.2 :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 3, 2003, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on October 3, 2003.

The application file is being forwarded to Technology Center 1700, Art Unit 1733 for further processing.

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

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



JGJR.: 06-06

Paper No: __

ROBIN, BLECKER & DALEY
330 MADISON AVENUE
NEW YORK NY 10017

COPY MAILED
JUN 19 2006
OFFICE OF PETITIONS

In re Application of :
Yonezawa, et al. : DECISION
Application No.: 10/000,668 :
Filing Date:15 November, 2001 :
Attorney Docket No. B984-062 :

This is a decision on the petition filed on 26 May, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181, alternatively, to revive the application under 37 C.F.R. §1.137(a), as having as abandoned due to unavoidable delay, or 37 C.F.R. §1.137(b), as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; the petition under 37 C.F.R. §1.137(a) is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

There is no indication that Petitioner herein ever timely and properly Noticed the Office as to a Change of Address for correspondence as to the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice documentation 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.

Further, Petitioner's complaint that a change of address associated with a customer number is inapplicable in that the instant application never was associated with a customer number—as evidenced by the very copies of PAIR documents that Petitioner submitted with the petition.

Finally, Petitioner demands that the Office take action—to wit: institute a change of address. However, Petitioner has failed to do what he must under the Rules of Practice with regard to filing a separate paper giving Notice to the Office. (See: 37 C.F.R. §1.4(d).) Statutes and the Rules of Practice (e.g., 37 C.F.R. §1.4, §1.8 and §1.10) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

NOTES:

- (1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled “Renewed Petition under 37 C.F.R. §.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 final Office action mailed on 6 October, 2005 (a copy is provided with this decision), with reply due absent an extension of time on or before 6 January, 2006;
- the instant application went abandoned after midnight 6 January, 2006;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 26 May, 2006, Petitioner filed the instant petition, averred non receipt of the Office action and provided, *inter alia*, an extensive history of the merger of firms, copies of Office PAIR documents, statement as to the error of the Office in not changing the mailing address in the instant application upon Petitioner’s submission of a change for a customer number and the error of the U.S. Postal Service (USPS) in returning the Office action in question to the Office, and the like—however, the bottom line is that Petitioner:

—never Noticed the Office as to a change of address as to the instant application;

–never associated the instant application with a customer number (as is clearly evident from the empty customer number box in the very documents that Petitioner submitted herein);

–never made a showing of unavoidable delay (clearly not having evidenced the attention one devotes to one’s most important business affairs);

–did not make the statement of unintentional delay; and

–apparently did not submit a reply to the Office action in question;

- out of an abundance of caution, Petitioners always are reminded that each request to the Office must be filed as a separate paper (see: 37 C.F.R. §1.4(c)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner’s duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party’s own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(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 —

It appears that Petitioner is unable to make a showing as to withdrawal of the holding of abandonment or revival of an application abandoned due to unavoidable delay or unintentional delay, respectively, under 37 C.F.R. §1.137(a) or (b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵

-
- (1) Holding certain facts to have been established;
 - (2) Returning papers;
 - (3) Precluding a party from filing a paper, or presenting or contesting an issue;
 - (4) Imposing a monetary sanction;
 - (5) Requiring a terminal disclaimer for the period of the delay; or
 - (6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

² 35 U.S.C. §133 provides:

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

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

³ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁴ *See: Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

⁵ *See: In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.⁸

Further, the commentary at MPEP §711.03(c) provides:

* * *

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

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been

⁶ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

⁷ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

⁸ See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* **

Petitioner appears wholly unable to satisfy the showing requirements described above.

Allegations as to
Unavoidable 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.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unavoidable delay, and—where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has not satisfied and likely cannot satisfy the requirements of the regulation.

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.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner has failed to satisfy the regulatory requirements.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **dismissed**; Petitioner has not satisfied the regulatory requirements and the petition under 37 C.F.R. §1.137(a) is **dismissed**; and, finally, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

ALTERNATIVE VENUE

Petitioner's only alternative to irretrievable abandonment may be a petition alleging unavoiable or unintentional delay under 37 C.F.R. §1.137(a) or (b).⁹

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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

Further correspondence with respect to this matter should be addressed as follows:¹⁰

⁹ The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

¹⁰ On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information, see: <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf> .)

By mail: Commissioner for Patents¹¹
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

Encl: Final Office action mailed on 6 October, 2005

cc:

JOHN J. TORRENTE
COWAN LIEBOWITZ & LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-6799

¹¹ To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.



UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
10/000,668	11/15/2001	Hiroki Yonezawa	B984-062	9361

7590 10/06/2005
Robin, Blecker & Daley
330 Madison Avenue
New York, NY 10017

EXAMINER

XIAO, KE

ART UNIT PAPER NUMBER

2675

DATE MAILED: 10/06/2005

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

Office Action Summary	Application No. 10/000,688	Applicant(s) YONEZAWA ET AL.	
	Examiner Ke Xiao	Art Unit 2675	

-- 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 21 January 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) 1-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 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 15 November 2001 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) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abraham (US 5,684,943) in view of Inagaki (US 5,742,264).

Regarding **Claim 1**, Abraham discloses an image generating system comprising image pickup means for capturing an image of a real space in a general direction of the observer (Col. 1 lines 34-39). The device encompasses a composite image generating means (Fig. 1, Matting Processor; Col. 2 lines 45-50, Col. 3 lines 16-29) for generating a composite image by synthesizing the image of the virtual space generated by said virtual space image generating means and the image of the real space outputted by the image pickup means, a display means (Fig. 1 Eye Phones) For displaying the composite image generated by the composite image generating mean and managing means (Fig. 1 Control Computer) for collectively managing information on objects present in the real space and the virtual space as well as locations and orientations (Col. 6 lines 4-7). Abraham teaches how virtual images are processed to properly integrate the virtual and real video images (Col. 3 lines 13-29). Abraham inherently teaches that the information of both the virtual space as well as the real space is

Art Unit: 2675

converted into a common space through synthesis of the two images into one display screen (Fig. 1, Col. 2 lines 45-50, Col. 3 lines 16-29).

Abraham fails to teach a more precise method of determining line-of-sight information as claimed.

Inagaki teaches a detecting means for detecting the eye position of the observer and the line-of-sight direction of the observer, a virtual space image generating means for generating an image of a virtual space at the eye position of the observer and in the line-of-sight direction of the observer, the eye position and the line-of-sight direction being detected by the detecting means (Col. 10 lines 63-66). Inagaki also teaches the use of an error compensator to correct the potential differences in location and orientation between the two images (Col. 21 lines 59-65).

Abraham uses a head sensor to determine the line-of-sight of the user, however his device would have been easily modified to incorporate an eye sensor as suggested by Inagaki. It would have been obvious to one skilled in the art to integrate an eye tracking means along with the head tracker in order to better determine the exact line-of-sight of the user and support images unaffected by headshake noise.

Regarding Claim 2, Abraham teaches a device where managing means can update the information on the objects present in the real space and the virtual space as well as the locations, orientation, and status (Col. 2 line 60 - Col. 3 line 2, Col. 5 line 60 - Col. 7 line 7).

Regarding Claim 3, Abraham discloses an image generating system where managing means notifies the composite image generating means for the information on

Art Unit: 2675

the objects present in the real space and the virtual space as well as the locations, orientations, and status at predetermined time intervals.

Regarding **Claim 4**, Abraham explains that the virtual space image generating means is responsive to the updating of the information by the managing means, for generating the image of the virtual space based on the information on the objects present in the real space and the virtual space as well as the locations and orientations thereof (Col. 8 lines 23-31).

Regarding **Claim 5**, Abraham disclose an image generating system where the composite image generating means is responsive to the updating of information by the managing means for drawing the image of the real space (Fig. 1, Col. 7 lines 30-35).

Regarding **Claim 6**, Abraham discloses an image generating system where the composite image generating means synthesizes the image of the real space and the image of the virtual space after the composite image generating means has completed drawing the image of the real space and the virtual space image generating means has generated the virtual space image of the virtual space (Fig. 1, Col. 7 lines 30-35).

Regarding **Claim 7**, Inagaki discloses a composite image generating means that regenerates the image of the virtual space based on the eye position of the observer and the line-of-sight direction of the observer detected by the detecting means, immediately before synthesizing the images (Col. 11 lines 6-9).

Regarding **Claim 9**, is rejected largely on the same grounds as the rejection of claim 4, however the additional limitation of where the composite image generating means executes a process of drawing the image of the real space in parallel with the

Art Unit: 2675

process of generating the image of the virtual space, executed by the virtual space image generating means is not mentioned in detail by Abraham. Such an implementation could easily be implemented in Abraham's device, as there are several parallel processors in the system. Producing the graphics in the claimed order would have been obvious to one skill in the art since processing the two images in parallel could speed up the slow display time associated with sequential processing. This limitation of having the observer be a plurality of observers is not essential to the functionality of the device. Furthermore, restricting or allowing multiple observers is not a variable that can be claimed.

Regarding **Claim 10**, Abraham discloses an image generating system that further comprises an operation detecting means for detecting an operating of the observer including a gesture and status thereof based on results of the detection by detecting means (Col. 2 lines 38-41). Abraham discloses an image generating system where the operation of the observer detected by said operation detecting means can be used as an input that acts on a space in which the composite image is present and virtual objects are present in the space (Col. 2 lines 41-45).

Claims 12 and 23 are rejected on the same grounds as the rejection of claim 1.

Claims 13 and 24 are rejected on the same grounds as the rejection of claim 2.

Claims 14 and 25 are rejected on the same grounds as the rejection of claim 3.

Claims 15 and 26 are rejected on the same grounds as the rejection of claim 4.

Claims 16 and 27 are rejected on the same grounds as the rejection of claim 5.

Art Unit: 2675

Claims 17 and 28 are rejected on the same grounds as the rejection of claim 6.

Claims 18 and 29 are rejected on the same grounds as the rejection of claim 7.

Claims 19 and 30 are rejected on the same grounds as the rejection of claim 8.

Claims 20 and 31 are rejected on the same grounds as the rejection of claim 9.

Claims 21 and 32 are rejected on the same grounds as the rejection of claim 10.

Claims 22 and 33 are rejected on the same grounds as the rejection of claim 11.

Art Unit: 2675

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ke Xiao whose telephone number is (571) 272-7776. The examiner can normally be reached on Monday through Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 23rd, 2005 - kx -



SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER

Response to Arguments

Regarding the applicant's arguments against the rejections made against independent claims 1, 12, and 23, the applicant argues that the combined teachings of Abraham and Inagaki does not teach that a management of information objects in real space and virtual space includes converting the information into a common space coordinate system. However as discussed above Abraham clearly displays the composite image of both real and virtual space to the viewer. In order for this single image to be synthesized and displayed to any viewer the real space and the virtual space but be converted to a singular and common coordinate space namely the display screen's coordinate space. The applicant further argues that the combination of Abraham and Inagaki is inappropriate because Inagaki is only concerned with the use of line-of-sight in a virtual space and does not teach it in a real space. However the idea of line-of-sight exists both in real and virtual space it would have been obvious to use Inagaki's system in any space be it virtual or real.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the



JGJR.: 04-07

Paper No: __

JOHN J. TORRENTE
COWAN LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036

COPY MAILED

APR 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Yonezawa, et al.	:	DECISION
Application No.: 10/000,668	:	
Filing Date: 15 November, 2001	:	
Attorney Docket No. B984-062	:	

This is a decision on the petition filed on 22 August, 2006, to revive the application under 37 C.F.R. §1.137(b), as having as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, it appears that the instant petition was received 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 final Office action mailed on 6 October, 2005 (a copy is provided with this decision), with reply due absent an extension of time on or before 6 January, 2006;
- the instant application went abandoned after midnight 6 January, 2006;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- on 26 May, 2006, Petitioner filed the original petition, averred non receipt of the Office action and provided, *inter alia*, an extensive history of the merger of firms, copies of Office PAIR documents, statement as to the error of the Office in not changing the mailing address in the instant application upon Petitioner's submission of a change for a customer number and the error of the U.S. Postal Service (USPS) in returning the Office action in question to the Office, and the like—however, the bottom line is that Petitioner:
 - never Noticed the Office as to a change of address as to the instant application;
 - never associated the instant application with a customer number (as is clearly evident from the empty customer number box in the very documents that Petitioner submitted herein);
 - never made a showing of unavoidable delay (clearly not having evidenced the attention one devotes to one's most important business affairs);
 - did not make the statement of unintentional delay; and
 - apparently did not submit a reply to the Office action in question;
- and, for those reasons, *inter alia*, the original petition was dismissed on 19 June, 2006;
- the instant petition followed in an effort to cure those deficiencies;
- out of an abundance of caution, Petitioners always are reminded that each request to the Office must be filed as a separate paper (see: 37 C.F.R. §1.4(c)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

It appears that Petitioner has satisfied the regulatory requirements as to a petition averring unintentional delay under 37 C.F.R. §1.137(b) with the filing of the instant petition, the request for continued examination under 37 C.F.R. §1.114 with fee and amendment as a submission, and statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

-
- (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 regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.³

Delays in responding properly raise the question whether delays are unavoidable.⁴ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁵ And the Petitioner must be diligent in attending to the matter.⁶ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁷))

Allegations as to
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.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

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 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. §1.2⁸) 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/Caller's action(s).



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

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.



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Fliesler Meyer LLP
650 California Street
14th Floor
San Francisco CA 94108

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MAR 09 2009

OFFICE OF PETITIONS

In re Patent No. 7,409,420 :
Pullara et al. : LETTER REGARDING PATENT
Issue Date: August 5, 2008 : TERM ADJUSTMENT AND
Application No. 10/000,708 : NOTICE OF INTENT TO ISSUE
Filed: October 31, 2001 : CERTIFICATE OF CORRECTION
Atty Docket No. ORACL-01068US1 :

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.322" filed October 27, 2008. Pursuant to patentees' duty of good faith and candor to the Office, patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) 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 **242 days.**

On August 5, 2008, the above-identified application matured into U.S. Patent No. 7,409,420, with a patent term adjustment of 493 days. On October 27, 2008, patentees submitted the instant comment. Patentees state that they believe that the patent term adjustment should be corrected from 493 days to 245 days.

Patentees' bases for correction of the patent term adjustment have been considered and found persuasive to the extent indicated.

Patentees are correct that the patent term adjustment should be reduced:

- by 61 days pursuant to 37 CFR 1.704(b) for the RCE filed December 27, 2005. A period of reduction of 61 days has been entered;
- by 28 days pursuant to 37 CFR 1.704(b) for the RCE filed March 21, 2007. A period of reduction of 28 days has been entered; and,
- by 159 days pursuant to 37 CFR 1.704(c)(7), for the submission of a reply having an omission on August 27, 2007. A period of reduction of 159 days has been entered.

However, a review of the application history further reveals an additional ground for reduction of patent term adjustment pursuant to 37 CFR 1.704(c)(10). Patentees submitted an Information Disclosure Statement (IDS) on April 23, 2008, after the mailing of the notice of allowance, which under the circumstances of this patent application, is a ground for reduction of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

It is undisputed that patentees filed the IDS after the mailing of the notice of allowance. A review of the IDS of April 23, 2008, reveals that it did not include a § 1.704(d) statement.¹

¹ Pursuant to 37 CFR 1.704(d):

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution

The Office responded to the IDS on April 25, 2008. Thus, a period of reduction of 3 days, counting the number of days beginning on the date the IDS was filed, April 23, 2008, and ending on the mailing date of the Office action or notice in response to the IDS, April 25, 2008, is warranted. Accordingly, a period of reduction of 3 days has been entered.

In view thereof, the patent should have issued with a patent term adjustment of **242 days** (784 days of Office delay - 542 days of applicant delay).

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 patentees' 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 **242 days**.

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



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

Enclosure: Copy of DRAFT Certificate of Correction

(processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Day : Friday
 Date : 3/6/2009
 Time : 11:38:22

PALM INTRANET

PTA Calculations for Application: 10/000708			
Application Filing Date:	10/31/2001	PTO Delay (PTO):	784
Issue Date of Patent:	08/05/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	291
Post-Issue Petitions:	0	Total PTA (days):	242
PTO Delay Adjustment:	-251		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
117	03/06/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		251	
112.5	07/16/2008	PTA 36 MONTHS			
112	08/05/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
111	07/09/2008	EXPORT TO FINAL DATA CAPTURE			
110	07/08/2008	DISPATCH TO FDC			
109	07/03/2008	FINISHED INITIAL DATA CAPTURE			
108	06/30/2008	CORRESPONDENCE ADDRESS CHANGE			
107	06/20/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
106	06/20/2008	WORKFLOW - QUERY REQUEST - FINISH			
105	06/18/2008	TC RETURN TO PUBS			
104	06/18/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
103	06/18/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
102	05/23/2008	ISSUE FEE PAYMENT VERIFIED			
101	05/23/2008	ISSUE FEE PAYMENT RECEIVED			
100	05/02/2008	PUBS CASE REMAND TO TC			
99	05/05/2008	WORKFLOW - QUERY REQUEST - BEGIN			
98	04/21/2008	EXPORT TO INITIAL DATA CAPTURE			
97	04/25/2008	MAIL PUB NOTICE OF NON-COMPLIANT IDS			
96	04/25/2008	PUB NOTICE OF NON-COMPLIANT IDS			
95	04/23/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
94	04/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	04/17/2008	MAIL NOTICE OF ALLOWANCE			

92	04/11/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
91	04/11/2008	ISSUE REVISION COMPLETED			
90	04/11/2008	DOCUMENT VERIFICATION			
89	04/11/2008	NOTICE OF ALLOWABILITY			
88	02/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
87	01/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	11/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
85	02/05/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		40	80
84	02/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
83	01/10/2008	REFERENCE CAPTURE ON IDS			
82	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	01/12/2008	DATE FORWARDED TO EXAMINER			
80	12/27/2007	RESPONSE AFTER NON-FINAL ACTION		10	74
79	12/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
78	11/26/2007	REFERENCE CAPTURE ON IDS			
77	11/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
76	01/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	11/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	09/17/2007	MAIL NON-FINAL REJECTION			
73	09/04/2007	NON-FINAL REJECTION			
72	08/27/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	08/27/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	69
70	08/29/2007	DATE FORWARDED TO EXAMINER			
69	08/27/2007	RESPONSE AFTER NON-FINAL ACTION			
68	08/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
67	08/27/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

65	06/26/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
64	06/23/2007	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
63	11/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	03/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	03/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	03/27/2007	DATE FORWARDED TO EXAMINER			
59	03/21/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
58	03/27/2007	DATE FORWARDED TO EXAMINER			
57	03/21/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
56	03/27/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
55	03/21/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	03/21/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
53.7	11/17/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		65	45
53	11/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	11/21/2006	MAIL FINAL REJECTION (PTOL - 326)			
51	11/17/2006	FINAL REJECTION			
50	09/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	10/03/2006	MISCELLANEOUS INCOMING LETTER			
48	09/13/2006	REFERENCE CAPTURE ON IDS			
47.7	09/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	09/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	09/19/2006	DATE FORWARDED TO EXAMINER			
45	09/13/2006	RESPONSE AFTER NON-FINAL ACTION		72	41
44	09/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	04/03/2006	MAIL NON-FINAL REJECTION			
40	03/15/2006	NON-FINAL REJECTION			

39	12/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	12/27/2005	REFERENCE CAPTURE ON IDS			
37.7	12/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	12/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	01/11/2006	DATE FORWARDED TO EXAMINER			
35	12/27/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
34	01/11/2006	DATE FORWARDED TO EXAMINER			
33	12/27/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
32	01/11/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
31	12/27/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	12/27/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
29	07/27/2005	MAIL FINAL REJECTION (PTOL - 326)			
28	07/25/2005	FINAL REJECTION			
27	05/23/2005	REFERENCE CAPTURE ON IDS			
26.7	05/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
26	05/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/06/2005	DATE FORWARDED TO EXAMINER			
24	05/23/2005	RESPONSE AFTER NON-FINAL ACTION		1	21
23	01/26/2005	REFERENCE CAPTURE ON IDS			
22.7	01/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	01/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	02/22/2005	MAIL NON-FINAL REJECTION	784		-1
20	02/22/2005	NON-FINAL REJECTION			
19	12/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	12/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	11/17/2003	REFERENCE CAPTURE ON IDS			
15	09/02/2003	REFERENCE CAPTURE ON IDS			

14	05/05/2003	REFERENCE CAPTURE ON IDS			
13.7	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/17/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12.7	09/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/02/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11.7	05/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	05/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	03/13/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	12/16/2002	TRANSFER INQUIRY TO GAU			
8	07/31/2002	APPLICATION DISPATCHED FROM OIPE			
7	07/29/2002	APPLICATION IS NOW COMPLETE			
6	07/08/2002	ADDITIONAL APPLICATION FILING FEES		103	4
5	07/08/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	12/27/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
2	12/11/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/31/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | [Home page](#)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,409,420 B2

DATED : Aug. 5, 2008

INVENTOR(S) : Pullara 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 (493) days

Delete the phrase "by 493 days" and insert – by 242 days--



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C/O BRINKS HOFER GILSON & LIONE
PO BOX 10395
CHICAGO, IL 60610

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
El-Ratel : LETTER REGARDING PTA
Application No. 10/000,725 :
Filed: November 30, 2001 :
Atty. Dkt. No.: 10541/1049 :

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed October 11, 2005. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The correct patent term adjustment ("PTA") at the time of the allowance is 645 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 645 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

The Determination of Patent Term Adjustment mailed July 7, 2005 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 711 days. Applicants, however, indicate that as a result of a supplemental response being submitted June 23, 2005, the PTA is subject to an additional reduction of 66 days.

A review of the application history reveals that the application is entitled to an adjustment of 715 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 715 days, however, is properly reduced four days in accordance with 37 CFR 1.704(b) in connection with the amendment submitted April 18, 2005. The reduction began April 15, 2005, the day after the day that is three months after the date that the non-final Office action was mailed, and ended April 18, 2005, the date the amendment was submitted.

The adjustment of 715 days is further reduced 66 days, as indicated by applicant, in accordance with 37 CFR 1.704(c)(8). The reduction began April 19, 2005, the day after the date that

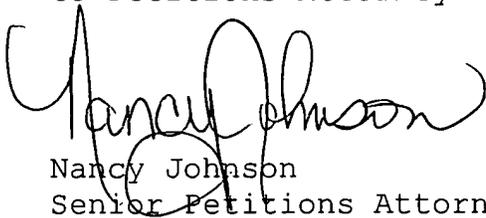
the initial response to the non-final Office action was filed, and ended June 23, 2005, the date the supplemental response was submitted.

In view thereof, at the time of allowance, the application was entitled to an adjustment of 645 days, as indicated by applicant.

As applicant is advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application is being forward to the Publications Division for issuance of patent.

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

A handwritten signature in cursive script that reads "Nancy Johnson". The signature is written in black ink and is positioned above the typed name and title.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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Sean Otoole
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Atlanta GA 30350

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Sean David OTOOLE :
Application No. 10/000,760 :
Filed: October 24, 2001 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 non-final Office action mailed December 14, 2004, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 15, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 14, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 3627 for appropriate action on the concurrently filed amendment.


Brian Hearn
Petitions Examiner
Office of Petitions



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KENWOOD, CA 95452

MAILED

APR 09 2010

OFFICE OF PETITIONS

In re Patent No. 6,780,318 :
Issue Date: August 24, 2004 :
Application No. 10/000,764 : ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. 087508-0278261 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 28, 2009 and resubmitted March 29, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 24, 2008 for failure to pay the 3 1/2 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.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

The patent file is being forwarded to Files Repository.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GARY HOENIG
2777 YULUPA AVENUE #222
SANTA ROSA, CA 95405



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CHRISTIE PARKER & HALE LLP
PO BOX 7068
PASADENA, CA 91109-7068

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APR 21 2005

OFFICE OF PETITIONS

In re Application of :
Rafael Bonilla :
Application No. 10/000,765 : DECISION GRANTING PETITION
Filed: October 31, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 53511/THD/L529 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2004 (and resubmitted on January 13, 2005), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the restriction requirement mailed September 29, 2003, which set a one month shortened statutory period within which to file the reply. No reply or extensions of time having been received, the date of abandonment of this application is October 30, 2003. A Notice of Abandonment was mailed on June 15, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of September 29, 2003 is accepted as having been unintentionally delayed.

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

The application file is being forwarded to Technology Center AU 1733 for appropriate action on the reply received October 14, 2004.

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



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Sonia K Guterman
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo
One Financial Center
Bostonq MA 02111

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DEC 12 2003

OFFICE OF PETITIONS

Applicant: Magil et al.
Appl. No.: 10/000,840
Filing Date: October 23, 2001
Title: NOVEL EPIDERMAL GROWTH FACTOR PROTEIN AND GENE, AND METHODS OF USE THEREFOR
Attorney Docket No.: 24492-005
Pub. No.: US 2003/0171269 A1
Pub. Date: September 11, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on November 5, 2003 for above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the wrong correspondence address.

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 correspondence address is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the correspondence address 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 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.

¹Changes 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).

Any request for republication under 37 CFR 1.221(a), 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 will be examined 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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Paper No. 8

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1445 DREW AVE
DAVIS, CA 95616

In re Application of

Brody, et al.

Application No. 10/000,845

Filed: October 24, 2001

Attorney Docket No. 4944.220-US

COPY MAILED

FEB 04 2004

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the under 37 CFR 1.137(b) filed January 23, 2004. The petition will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

The petition is **granted**.

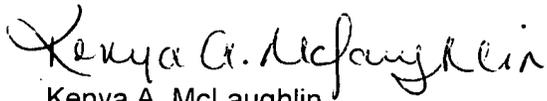
This application was held abandoned on May 30, 2002, after no reply was received to the Notice to File Missing Parts of Nonprovisional Application. The notice required the filing fee and surcharge to be paid, substitute drawings, statements relative to the sequence listing to be filed. The notice a two month shortened period for reply. No reply was believed to have been received within the allowed period and the application became abandoned on May 30, 2002. A Notice of Abandonment was mailed on January 14, 2004.

Petitioner has provided a copy of an Office date-stamped postcard whereby the Office acknowledges having received on June 6, 2002, forty-five pages of formal drawings, a statement relative to the sequence listing, and authorization to charge deposit account 50-1701 for the filing fee and surcharge. The evidence is convincing that the missing documents and fees were received on June 6, 2002, therefore; the holding of abandonment was improperly imposed and is withdrawn with this decision.

A review of the application file did not reveal the forty-five pages of formal drawings, although the formal drawings are recorded in the application file as having been received on

June 6, 2002, and petitioner has established that the Office acknowledged receipt of the same. Accordingly, it would not be appropriate to dismiss petitioner's request for withdrawal of the holding of abandonment as it appears that the drawings were misplaced by the Office. It is presumed that the Office of Initial Patent Examination will take appropriate steps to obtain another copy of the formal drawings before allowing the application to proceed for examination.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



Paper No. 7

STEVEN J FUNK
SPRINT CORPORATION
8140 WARD PARKWAY
KANSAS CITY MO 64114

COPY MAILED

JUN 19 2003

OFFICE OF PETITIONS

In re Application of :
Debashis Haldar :
Application No. 10/000,855 :
Filed: October 24, 2001 :
Attorney Docket No. 1775 :
: ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 13, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on September 18, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant filed a "Rescission to Rescind Previous Nonpublication Request" on October 1, 2002 (Certificate of Mailing under 37 CFR 1.8 dated September 18, 2002, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.¹). The rescission request did not provide notice of the PCT filing. Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.²

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.

¹ See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm>.

² See *id.*

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets forth a projected publication date of September 25, 2003, accompanies this decision on petition.

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

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)

cc: Lawrence H. Aaronson
McDonnell, Boehnen, Hulbert & Berghoff
300 South Wacker Drive
Suite 3200
Chicago, Illinois 60606



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

SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Debashis Haldar	: DECISION ON REQUEST FOR
Patent Number	: 7636750	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/000,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/24/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1274** 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.



Osha Lliang LLP
1221 McKinney Street
Suite 2800
Houston, TX 77010

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APR 12 2007

OFFICE OF PETITIONS

In re Application of
Fujii et al
Application No. 10/000,859
Patent No. 7,085,477
Filed: October 24, 2001
Attorney Docket 04995/035001

:
:
: DECISION GRANTING PETITION
:
:

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705(d)" timely¹ filed on August 6, 2006, requesting that the Patent Term Adjustment be adjusted from eleven hundred and thirty-nine days to eleven hundred and eighty-six days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of **1186** days rather than the 1139 day amount printed on the front of the patent. In addition, the Office will adjust the PTA calculation displayed in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting an applicant delay of forty-seven (47) days for the submission of drawings after the mail date of the notice of allowance. Applicants assert that the drawings submission prior to the notice of allowance and the PALM entry of drawings on June 16, 2006 is inaccurate.

Applicants' arguments are persuasive. A review of the file reflects that no drawings were filed after the mailing of the notice of allowance on March 24, 2006. Accordingly, the forty-seven (47) day reduction is in error because applicant did not fail to engage in any reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10).

After review of this decision, this patented file will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

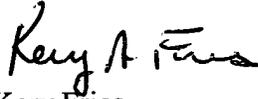
The Office has assessed the \$200.00 (petition) to deposit account 50-0591. No additional fees

¹Patent issue date August 1, 2006.

Application No.10/000,859

are required in determining this decision

Any questions concerning the issuance of this patent should be directed to Kery A. Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757



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

cc: Adjusted Pair Calculation
Draft Certificate of Correction

Day : Wednesday

Date: 4/11/2007

Time: 14:18:06

PALM INTRANET**PTA Calculations for Application: 10/000859**

Application Filing Date:	10/24/2001	PTO Delay (PTO):	1186
Issue Date of Patent:	08/01/2006	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	47
Post-Issue Petitions:	0	Total PTA (days):	1186
PTO Delay Adjustment:	47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
36	04/11/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	47		
31.5	07/12/2006	PTA 36 MONTHS			
31	08/01/2006	PATENT ISSUE DATE USED IN PTA CALCULATION			
30	06/28/2006	EXPORT TO FINAL DATA CAPTURE			
29	06/27/2006	DISPATCH TO FDC			
28	06/27/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
27	06/16/2006	WORKFLOW - DRAWINGS FINISHED		47	
26	06/16/2006	ISSUE FEE PAYMENT VERIFIED			
25	06/16/2006	ISSUE FEE PAYMENT RECEIVED			
24	06/05/2006	FINISHED INITIAL DATA CAPTURE			
23	03/31/2006	EXPORT TO INITIAL DATA CAPTURE			
22	03/24/2006	MAIL NOTICE OF ALLOWANCE	1186		-1
21	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	03/21/2006	ISSUE REVISION COMPLETED			
19	03/20/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
18	03/20/2006	NOTICE OF ALLOWABILITY			
17	10/24/2001	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	02/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	07/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
14	05/31/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	10/18/2004	CASE DOCKETED TO EXAMINER IN GAU			
12	10/01/2004	CASE DOCKETED TO EXAMINER IN GAU			

11	07/19/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	10/24/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	03/10/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	02/22/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	01/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	10/24/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
4	01/08/2002	APPLICATION DISPATCHED FROM OIPE			
3	12/31/2001	APPLICATION IS NOW COMPLETE			
2	12/11/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/24/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,085,477 B2
DATED : August 1, 2006
INVENTOR(S) : Fujii 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 (1139) days

Delete the phrase "by 1139 days" and insert – by 1186 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

LAHIVE & COCKFIELD, LLP.
28 STATE STREET
BOSTON MA 02109

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FEB 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Gary L. Johnson	:	
Application No. 10/000,864	:	DECISION ON PETITION
Filed: October 31, 2001	:	UNDER 37 C.F.R. § 1.137(a)
Attorney Docket No.: CPI-085CPUSCN	:	
Title: HUMAN MEKK	:	
PROTEINS, CORRESPONDING NUCLEIC	:	
ACID MOLECULES, AND USES	:	
THEREFOR	:	

This is a decision on the petition under 1.137(a)¹, filed December 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 21, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 22, 2004. A Notice of Abandonment was mailed October 25, 2004.

With the instant petition, Petitioner has submitted the required reply, as well as the petition fee and documentary evidence which establishes that the entire period of delay was unavoidable.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for review of the response to the non-final office action, submitted concurrently with this petition.

¹ A grantable petition pursuant to 37 CFR 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to 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 was unavoidable;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office



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ALEXANDRIA, VA 22313-1450
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Paper No. 8

Daniel G. Chapik
MEDTRONIC, INC
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

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JUN 17 2004

OFFICE OF PETITIONS

In re Application of :
Lawrence J. Mulligan et al. :
Application No. 10/000,973 :
Filed: October 30, 2001 :
Attorney Docket No. P-9572.00 :

DECISION
ON PETITION
37 CFR 1.137(b)

ACD

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2004, to revive the above-identified application. The instant application became abandoned for failure to reply to the Notice to File Corrected Application Papers, mailed December 26, 2001.

The petition is **GRANTED**.

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

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

Any questions concerning this matter may be directed to Ehud Gartenberg at (703) 305-4066 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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DEC 12 2003

Paper No. 8

In re Application of :
David M. Payne *et al* : DECISION ON PETITION
Application No. 10/000,976 :
Filed: October 24, 2001 :
Attorney Docket No. HP 10013701-1 :

The paper filed by facsimile transmission on November 18, 2003, is construed as a petition by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated January 15, 2003. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioners have alleged that this application is not abandoned because a proper and timely reply to the Office letter in question was in fact filed. Petitioners have supported this allegation by furnishing a copy of the reply, and a copy of the transmittal letter for the reply. The transmittal letter has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated April 2, 2003, a date within the period set by the Office letter in question for filing a reply thereto. Petitioners have also furnished a copy of a filing receipt for the reply showing that it was actually received in the Office on April 16, 2003.

It is clear from the above evidence that a timely reply to the Office letter dated January 15, 2003 was in fact filed. See 37 CFR 1.8(b). Therefore, this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on April 16, 2003, certificate of mailing date April 11, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400



Paper No. 7

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 91614

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SEP 06 2002

OFFICE OF PETITIONS

In re Application of	:
JEFFREY A. WHITSETT	:
Application No. 10/000,978	: DECISION GRANTING
Filed: October 31, 2001	: PETITION
Attorney Docket No. CHMC7.001CP2	:

This is a decision on the communication filed April 1, 2002, which is being treated as a petition requesting that the above-identified application be accorded a filing date of October 31, 2001.

On October 31, 2001, applicant filed the above-identified application. However, on December 26, 2001, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on October 31, 2001, describes drawings containing Figures 1-31; however, it appears the United States Patent and Trademark Office (Office) did not receive those drawings.

In response, applicant filed the present communication, 31 pages of drawings, an executed declaration, and paid a \$130.00 surcharge for the late filing of the declaration. Applicant did not provide any discussion or persuasive evidence in the communication as to whether the drawing sheets were present on filing the application.¹

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

¹Senior Petitions Attorney Christina Tartera Donnell made a courtesy telephone call and spoke with applicant's counsel. However, applicant's counsel has not contacted the Office of Petition as requested to date.

MPEP § 601.01(f) also states that:

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

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

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

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed December 26, 2001, was sent in error and is hereby vacated. The application is accorded a filing date of October 31, 2001, without any drawings.

Accordingly, the petition is granted.

No petition fee has been charged to counsel's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 31, 2001, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/21/06

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/000986** Patent No.: **7005500**

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.

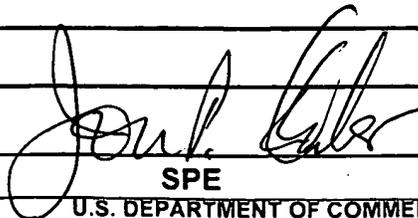
Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____



SPE

1653
Art Unit



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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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MAR 15 2006
OFFICE OF PETITIONS

In re Application of :
Patrick J. Smith, et. al. :
Application No. 10/000,990 : ON PETITION
Filed: November 14, 2001 :
Attorney Docket No. TI-32605 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 28, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely respond the Notice of Allowance and Fee(s) Due mailed September 14, 2004 and the Supplemental Notice of Allowability mailed December 22, 2004.

The Office hereby acknowledges receipt of \$700 for payment of the issue fee and \$300 for payment of the publication fee submitted on October 28, 2005. However, there is no indication that corrected formal drawings, as required by the Supplemental Notice of Allowability mailed December 22, 2004, have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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

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.

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

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

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

The centralized facsimile number is **(571) 273-8300**.

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



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Courtesy copy of the Supplemental Notice of Allowability mailed December 22, 2004

Ym

Courtesy Copy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,990	11/14/2001	Patrick J. Smith	TI-32605	1063
23494	7590	12/22/2004	EXAMINER	
TEXAS INSTRUMENTS INCORPORATED P O BOX 655474, M/S 3999 DALLAS, TX 75265			NGUYEN, MIKE	
			ART UNIT	PAPER NUMBER
			2182	

DATE MAILED: 12/22/2004

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

**Supplemental
Notice of Allowability**

Application No. 10/000,990	Applicant(s) SMITH ET AL.	
Examiner Mike Nguyen	Art Unit 2182	

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

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

1. This communication is responsive to 08/20/2004.
2. The allowed claim(s) is/are 1-17.
3. The drawings filed on _____ are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

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

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted. *-Including changes submitted by applicant on 5/10/04*
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

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

[Signature]
JEFFREY COFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100



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

DEC 20 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of

Mark J. Kilgard et al

Application No. 10/000,996

Filed: November 30, 2001

For: **SYSTEM, METHOD AND COMPUTER
PROGRAM PRODUCT FOR
PROGRAMMABLE FRAGMENT
PROCESSING IN A GRAPHICS PIPELINE**

This is a decision on the request to withdraw as attorney/agent of record filed on November 15, 2002.

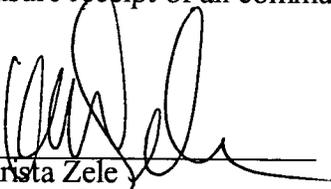
A grantable request to withdraw as attorney/agent of record must:

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

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Kevin J. Zilka and Dominic M. Kotab are removed from record. Stephen H. Pettigrew and Paul D. Carmichael remain active.

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


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

cc: Bill Galliani
Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155



UNITED STATES 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. MEYERS ET AL.
Issue Date: 04/13/2004
Appl No.: 10/001,000
Filed: November 02, 2001
For: Constrained Prosthetic Knee With Rotating Bearing

:
: **DECISION GRANTING**
: **PETITION**
: *37 CFR 1.324*
:
:
:
:

This is a decision on the petition filed 07/28/2004 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Eduardo C. Robert
Supervisory Patent Examiner
Art Unit 3733
Technology Center 3700

ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

UNITED STATES PATENT AND TRADEMARK OFFICE

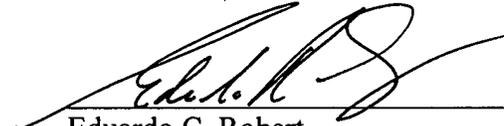
CERTIFICATE

Patent No. 6,719,800

Patented: 04/13/2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

JOHN E. MEYERS, G. DOUG LETSON, RUSSELL WINDSOR, VINCENT A. WEBSTER, BILL N. SISK, BILL H. HAYWOOD, ADAM GRINER, MICHAEL COOK, RODNEY L. BAYS, JERRY L. AIKINS, MARVIN FIGUEROA and PETER WALKER

A handwritten signature in black ink, appearing to read 'Eduardo C. Robert', is written over a horizontal line.

Eduardo C. Robert
Supervisory Patent Examiner
Art Unit 3733



UNITED STATES 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: July 5, 2007
TO: Certificates of Correction Branch
FROM: Eduardo Robert
SPE, Art Unit 3733
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,719,800 as specified on the attached Certificate.

Eduardo C. Robert, SPE
Art Unit 3733



Paper No. 7

P. Louis Myers
Fish & Richardson P.C.
225 Franklin Street
Boston MA 02110-2804

COPY MAILED

JAN 09 2003

OFFICE OF PETITIONS

In re Application of	:	
Gonnelli et al.	:	DECISION GRANTING
Application No. 10/001,002	:	PETITION
Filed: November 30, 2001	:	
Attorney Docket No. BVTP-P01-007	:	

This is a decision on the petition under 37 CFR 1.10(c), filed December 16, 2002, requesting that the above-identified application be accorded a filing date of November 30, 2001, rather than the presently accorded filing date of November 14, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 30, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL932076861US. The "date-in" indicated on the Express Mail label is November 30, 2001. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of November 30, 2001. The same Express Mail label number was placed on the original application papers located in the official file.

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

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to November 30, 2001, and the mailing of a corrected filing receipt.

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

Christina Tartera Donnell

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



UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Pre-Grant Publication Division
2231 Crystal Drive, Suite 905
Arlington, VA 22201
www.uspto.gov

June 2, 2003

**PROCESSED BY
PG PUB DIVISION**

JUN 02 2003

Jeff Coulter
Reed Technology and Information Services, Inc.
275 Gibraltar Road
Horsham, PA 19044

RE: Authorization of Corrections for A9 Publication

Authorization is given to publish the following original application for the purpose(s) of modifying the specified text, images or other documentation, as an A9 publication to correct publication inaccuracies.

Patent Application Number: 10/001,002
Publication Number Reference: US20020151842A1

Projected A9 Export Date: 6/5/03
Projected Publication Date: 8/7/03

The following errors are referenced in the USPTO letter from Christina Tartera Donnell of the Office of Petitions, Office of the Deputy Commissioner for Patent Examination Policy.

- 1) See attachments concerning USPTO letter to P. Louis Myers (petition filed December 16, 2002) processed by Christina Tartera Donnell (USPTO), "Pub. No.:US20020151842A1", for the purpose of correcting the filing date of the application. Those notated sections of the A1 publication are authorized for correction:

Reference: USPTO Office of Petition Letter

- A. "Publishing the incorrect filing date."

2) In accordance with Page III-37 of the 29Jan02 edition of the DATA PREPARATION MANUAL FOR PRE-GRANT PUBLICATION, the A9/P9 information document will specify the contents of the "See ..." line(s) that will be published under (15) Prior Publication Data on the front page of the A9 or P9 document.

The following information is for correction of US20020151842 A1 October 17, 2002:

See title page.

A handwritten signature in cursive script, reading "Shelby Pittman", is written over a solid horizontal line.

Shelby Pittman
United States Patent and Trademark Office
Pre Grant Publication Division



Paper No. 7

P. Louis Myers
Fish & Richardson P.C.
225 Franklin Street
Boston MA 02110-2804

In re Application of
Gonnelli et al. :
Application No. 10/001,002 : DECISION GRANTING
Filed: November 30, 2001 : PETITION
Attorney Docket No. BVTP-P01-007 :

This is a decision on the petition under 37 CFR 1.10(c), filed December 16, 2002, requesting that the above-identified application be accorded a filing date of November 30, 2001, rather than the presently accorded filing date of November 14, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 30, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL932076861US. The "date-in" indicated on the Express Mail label is November 30, 2001. Additionally, the Express Mail label contains a United States Postal Service (USPS) stamp of November 30, 2001. The same Express Mail label number was placed on the original application papers located in the official file.

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

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to November 30, 2001, and the mailing of a corrected filing receipt.

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

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



US 20020151842A1

(19) **United States**

(12) **Patent Application Publication**
Gonnelli et al.

(10) **Pub. No.: US 2002/0151842 A1**

(43) **Pub. Date: Oct. 17, 2002**

(54) **INJECTION SYSTEMS**

Related U.S. Application Data

(76) **Inventors: Robert R. Gonnelli, Mahwah, NJ (US);
David Lipson, No. Andover, MA (US);
Vasu Nishtala, Westford, MA (US);
Ciro Dimeglio, Shrewsbury, MA (US)**

(60) **Provisional application No. 60/250,410, filed on Nov. 30, 2000. Provisional application No. 60/250,425, filed on Nov. 30, 2000. Provisional application No. 60/250,537, filed on Nov. 30, 2000. Provisional application No. 60/250,573, filed on Nov. 30, 2000.**

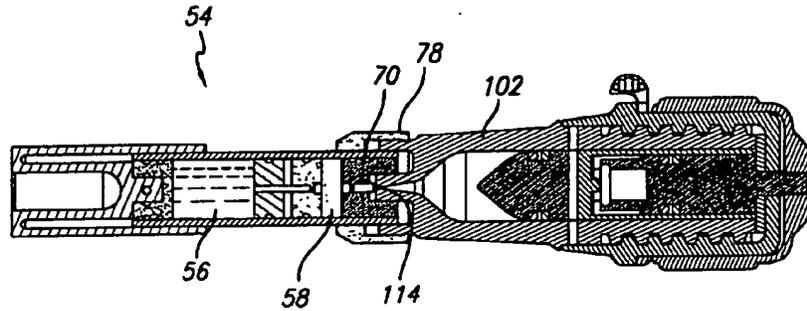
Correspondence Address:
P. LOUIS MYERS
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804 (US)

Publication Classification

(51) **Int. Cl.⁷ A61M 5/30**
(52) **U.S. Cl. 604/70**

(21) **Appl. No.: 10/001,002**
(22) **Filed: Nov. 14, 2001**

(57) **ABSTRACT**
Injection systems and devices that can be used in injection systems are disclosed.




UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/001,002	11/30/2001	Robert R. Gonnelli	BVTP-P01-007

P. LOUIS MYERS
 Fish & Richardson P.C.
 225 Franklin Street
 Boston, MA 02110-2804

CONFIRMATION NO. 9452



OC000000010144041

Date Mailed: 05/29/2003

NOTICE OF ACCEPTANCE OF PUBLICATION REQUEST

The request for voluntary publication, amended publication, early publication, redacted publication, republication, corrected publication or revised publication has been received for this application. The request, including payment of any necessary fee(s), is in compliance with 37 CFR 1.215, 1.217, 1.219 or 1.221.

The projected publication date is 09/04/2003.

Customer Service Center
 Initial Patent Examination Division (703) 308-1202



Application

Application Number:

Confirmation No: 9452

Effective/Priority Filing Date: 11/30/2000

Actual Filing Date: 11/30/2001

Title of Invention: Injection systems

Indicators

- Non Pub
- Early Pub
- Rescind Non Pub

Filing Type	Status Description	Projected Pub Date	Projected Export Dt	Actual Export Dt	System Cd	Bio Ind	Publication Status	Actual Pub Date	f
PTOCORR NEW	Pub Processing Published	08/07/2003 10/17/2002	06/05/2003 08/15/2002	08/15/2002	PA PA	N N	ELIGIBLE PUBLISHED	10/17/2002	L



Ropes & Gray, LLP
Patent Docketing 39/41
One International Place
Boston, MA 02110-2624

COPY MAILED

AUG 29 2008

In re Application of	:	
Robert R. Gonnelli et al.	:	
Application No. 10/001,002	:	DECISION ON PETITION
Filed: November 30, 2001	:	TO WITHDRAW
Attorney Docket No. BVTP-P01-007	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 2, 2008.

The request is **APPROVED**.

A review of the file record indicates that Yu Lu of the Ropes & Gray, LLP.: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 34313 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The power of attorney filed on September 23, 2002 was improperly accepted by the Office. Compliance with 37 CFR 3.73(b) has not been satisfied. If assignee desires to properly intervene in this application then a statement under 37 CFR 3.73(b) must be submitted.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor at the address noted on the oath and declaration. A courtesy copy of this decision will be mailed to address as indicated in the request to withdraw. If this firm would like to receive future correspondence, the proper power of attorney documents must be submitted or if an assignee has intervened compliance with 37 CFR 3.73(b) must be satisfied.

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

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.


Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert R. Gonnelli
52 James Beite Circle
Mahwah, NJ 07430

cc: Mr. Mark Lewis
800 Boston Turnpike
Shrewsbury, MA 01545



UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/001,002	11/30/2001	Robert R. Gonnelli	BVTP-P01-007

CONFIRMATION NO. 9452

POWER OF ATTORNEY NOTICE

28120
ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624



Date Mailed: 08/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2008.

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

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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

Staas & Halsey, LLP
Suite 700
1201 New York Avenue, N.W.
Washington, DC 20005

JUL 07 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
James R. Gauger et al.
Application No. 10/001,008
Filed: November 2, 2001
For: COLLAPSIBLE ISOLATION
APPARATUS

:
:
: - 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 April 9, 2003.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to the firm of Fitch Even Tabin and Flannery on August 19, 2002. Since no response to the August 19, 2002 Office action was filed, the application was held abandoned, and a Notice to that effect was mailed on April 14, 2003.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

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

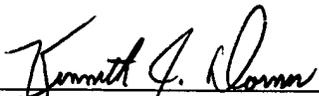
The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of November 19, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

A further review of the file record reveals that a revocation of power of attorney was filed on August 27, 2002. Since the revocation was not filed prior to the mailing of the Office action of August 19, 2002, the Office action was properly mailed to the address of record at that time, i.e., to the firm of Fitch Even Tabin and Flannery.

The docket record provided is for the firm of Staas & Halsey, LLP. To satisfy requirement (3) above, a docket record showing all actions due by the firm of **Fitch Even Tabin and Flannery** at and around the due date of November 19, 2002, needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/tpl: 6/27/03



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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

SEP 03 2003

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of
James R. Gauger et al.
Application No. 10/001,008
Filed: November 2, 2001
For: COLLAPSIBLE ISOLATION
APPARATUS

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is in reply to applicant's request for reconsideration and conditional petition to revive received on July 21, 2003. There is no fee required for this petition.

The petition is **DENIED**.

As noted in the previous petition dismissal decision mailed July 7, 2003 applicant is required to supply a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. The docket record must be attached to and referenced in practitioner's statement and that to satisfy this requirement, a docket record showing all actions due by the firm of **Fitch Even Tabin and Flannery** at and around the due date of November 19, 2002, needs to be supplied.

Applicant has stated in the request for reconsideration received July 21, 2003 that he was unable to obtain the docket records of the firm of **Fitch, Even, Tabin & Flannery**. Without such docket records, the relief afforded an applicant under 1156 O.G. 53 cannot be obtained.

As noted on page 2 of applicant's request for reconsideration and conditional petition to revive received on July 21, 2003 applicant requests petition to revive the application under 37 C.F.R. section 1.137(b) in the event that the Petition to Withdraw the Holding of Abandonment is not granted.

This application has been forwarded to the Office of Petitions per applicant's request.

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

By mail: Deputy Commissioner of Patent Examination Policy
Box DAC
Washington, D.C. 20231

By FAX: (703) 872-9306
Attn: Office of Petitions

By Hand: Crystal Plaza 4, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

Telephone inquiries relative to this decision should be directed to Steven N. Meyers at the number below.



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

snm/ekn/09/03/03



Paper No. 21

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

SEP 23 2003

OFFICE OF PETITIONS

In re Application of	:	
Gauger et al.	:	
Application No. 10/001,008	:	ON PETITION
Filed: November 2, 2001	:	
Attorney Docket No. 1668.1008-C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed August 19, 2002, which set a three-month shortened statutory period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on November 20, 2002. A Notice of Abandonment was mailed on April 14, 2003.

The petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, authorized payment of the petition fee, and made the proper statement of unintentional delay.

The \$650.00 petition fee will be charged to Deposit Account No. 19-3935, as authorized in the petition.

The file is being forwarded to Technology Center Art Unit 3634 for review of the reply submitted on April 9, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 16 2005

LEYDIG, VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

In re Application of :
Henrik S. Rasmussen et al :
Serial No.: 10/001,017 : PETITION DECISION
Filed: November 2, 2001 :
Attorney Docket No.: 213767 :

This is in response to the petition under 37 CFR 1.181, filed July 7, 2005, requesting entry of a revised Appeal Brief.

BACKGROUND

A review of the file history shows that the examiner mailed a Final Office action to applicants on March 17, 2004, setting a three month shortened statutory period for reply, which set forth a rejection of claims 1-15 and 17-23 (the only remaining claims) under 35 U.S.C. 103(a) as unpatentable over Mauceri et al (Cancer Res. 56, 4311-4314), Mauceri et al (Radiation Oncology Invest. 5, 220-226), Chung et al and Staba et al in combination with Gahery-Sigard et al.

Applicants filed a Notice of Appeal on June 22, 2004, and filed a first Appeal Brief on August 23, 2004. On November 12, 2004, the examiner mailed applicants a Notice of Defective Brief, stating that the four separate rejections under 35 U.S.C. 103(a) should be addressed separately.

Applicants submitted a second Appeal Brief on December 6, 2004, and separated the general statement of rejection into four separate rejections and addressed each one individually as required by the examiner. No other changes were made. The examiner mailed a second Non-compliant letter to applicants on June 8, 2005, stating that arguments made regarding the primary references could have been made after the first Office action and that to have these arguments considered now would require filing a continuing application.

Applicants filed a new Brief on July 7, 2005, which is identical to the previous Briefs except for a section at the end which addresses the obvious double patenting rejection.

Applicants then filed this petition protesting the examiner's holding in the last letter of Non-compliance on July 7, 2005, requesting that the Appeal Brief be accepted.

DISCUSSION

Applicants argue that the examiner's holding of non-compliance of the Appeal Brief with regard to applicants' arguments is improper. Applicants state that the M.P.E.P. does prohibit introduction of new amendments, affidavits or other evidence. It does not prohibit applicants from presenting their best arguments for patentability. Applicants further state that the arguments presented were previously presented in responses to various Office actions.

A review of the Office actions of this application shows that the arguments presented in the Appeal Brief were routinely presented in response to various Office actions. Applicants' inclusion of such arguments in the Brief is permitted so that all issues affecting patentability determination are fully developed in order for the Board to render a complete decision on all issues. Thus their inclusion in applicants' Appeal Brief is proper and does not require filing of continuing application papers to have them considered.

DECISION

The petition is **GRANTED**.

The Revised Appeal Brief filed July 7, 2005, is hereby entered as applicants' Appeal Brief. The examiner is directed to prepare an appropriate Examiner's Answer in reply to the Brief, or take other appropriate 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 571-273-8300.



Jasemine C. Chambers
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC, MI 48342

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OCT 03 2005

OFFICE OF PETITIONS

In re Application of :
Zhang : DECISION ON APPLICATION FOR
Application No. 10/001,019 : PATENT TERM ADJUSTMENT
Filed: November 2, 2001 :
Atty. Dkt. No.: 1062-009 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705" filed July 9, 2004. This matter is being properly treated as a timely filed application for patent term adjustment under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 302 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 268 days, as indicated on the Determination of Patent Term Adjustment mailed July 1, 2004, to an adjustment of 302 days.

In accordance with 37 CFR 1.702(a)(2), an adjustment of 302 days was accorded for failure mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

The Office errantly reduced the adjustment 34 days in connection with the Information Disclosure Statement ("IDS") filed March 3, 2004. Applicants, however, argue that because the final Office action was mailed on the same date that the supplemental response (IDS) was filed on March 3, 2004, that the submission

of the IDS is not a failure to engage in reasonable efforts to conclude prosecution (or processing).

Applicants arguments have been considered, and found convincing. The submission of the IDS occurred simultaneously with the mailing of the final Office action. Accordingly, the submission of the IDS is not deemed a supplemental response within the meaning of 37 CFR 1.704(c)(8).

Accordingly, the period of patent term adjustment as of the date of mailing of the Notice of Allowance is 302 days as argued by applicant.

The Office hereby acknowledges receipt of the required application fee of \$200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

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



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

Enclosure: Copy of Adjustment PAIR Calculation



MCHALE & SLAVIN, P.A.
2855 PGA BLVD.
PALM BEACH GARDENS FL 33410

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of :
Peter J. Cordani et al :
Application No. 10/001,047 :
Filed: November 1, 2001 :
Attorney Docket No. 2225.001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Final Rejection mailed November 12, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 13, 2003.

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

This application is being forwarded to Technology Center AU 3739.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions



MCAFFEE & TAFT
TWO LEADERSHIP SQUARE/TENTH FLOOR
211 NORTH ROBINSON
OKLAHOMA CITY, OK 73120

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MAR 05 2002
OFFICE OF PETITIONS

In re Application of :
Grossman : DECISION GRANTING PETITION
Application No. 10/001,055 :
Filed: 21 November, 2001 :
Attorney Docket No. (None) :

This is a decision on the renewed petition under ¶(c) of 37 C.F.R. §1.10¹ and under 37

¹ The regulations at 37 C.F.R. §1.10 provide:
§1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(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.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

C.F.R. §1.53 filed via FAX on 31 January, 2001, and supplemented via FAX on 1 March, 2002, requesting that the above-identified application be accorded a filing date of 21 November, 2001 (rather than 3 December, 2001, as previously accorded).

The petition under ¶(c) of 37 C.F.R. §1.10 is **GRANTED**;² therefore the petition under 37 C.F.R. §1.53 is **dismissed as moot**.

Petitioner alleges that the application was deposited in US Postal Service (USPS) Express Mail service on 21 November, 2001, and subsequently returned during a suspension of service by the USPS. In support of the allegation of:

- deposit Petitioner submits a copy of the Express Mail Label EV053657071US (which number matches that on the application transmittal) evidencing a USPS "date in" and also hand-stamped as 21 November, 2001; and
- suspension Petitioner submits a copy of the letter from the USPS management and the previous statement by Glenda Holden.

Further, registered practitioner Anthony L. Rahhal (Registration No. 37,562) declares the accuracy of this information.

The application file is being forwarded to Office of Initial Patent Examination for assignment of the filing date of 21 November, 2001, and issuance of a corrected Filing Receipt reflecting that filing date for Application No. 10/001,055. The application file will then be forwarded for processing as necessary.

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

² Pursuant to Petitioner's authorization, the petition fee herein (\$130.00) is charged to Deposit Account 50-0449.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-9199.



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



JOSEPH P ERRICO
150 DOUGLAS RD
FAR HILLS NJ 07931

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MAY 13 2002

OFFICE OF PETITIONS

In re Application of	:	
Ralph, et al.	:	
Application No. 10/001,078	:	DECISION ON PETITION
Filed: October 31, 2001	:	
Attorney Docket No. F-197	:	

This is a decision on the petition filed February 22, 2002 (Certificate of Mailing dated February 8, 2002), to accord the above-identified application a filing date of October 31, 2001, with page 22 of the specification as a part of the original disclosure.

Application papers in the above-identified application were filed on October 31, 2001. However, on December 28, 2001, the Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application," notifying applicant that the application had been accorded a filing date; however, page 22 of the specification appeared to have been omitted.

In response, on February 22, 2002, applicant filed the present petition to accord a filing date of October 31, 2001, with page 22 as part of the original disclosure. Applicant asserted that page 22 was with the application as originally filed on October 31, 2001. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Specification and Claims (33 pgs)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of October 31, 2001, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In view thereof, the petition is **GRANTED**.

The Notice of Omitted Items is hereby **VACATED**.

Given the basis for granting the petition, no petition fee was required, and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 31, 2001, using the application papers received in the Office on that date and page 22 of the specification resupplied on petition filed February 22, 2002. Applicant will

receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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



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



**SUPERVISOR, PATENT PROSECUTION SERVICES
PIPER RUDNICK LLP
1200 NINETEENTH STREET, N.W.
WASHINGTON, DC 20036-2412**

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OFFICE OF PETITIONS

In re Application of :
Ralph et al. :
Application No. 10/001,078 : **ON PETITION**
Filed: October 31, 2001 :
Attorney Docket No. 5384-003-57 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 26, 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 October 22, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on January 23, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$475.00 extension of time fee submitted with the petition on May 26, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

This matter is being referred to Technology Center 3700 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



WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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JUN 20 2002

OFFICE OF PETITIONS

In re Application of	:
Jay S. Walker; James A. Jorasch;	:
Geoffrey M. Gelman; Magdalena M.	: DECISION GRANTING PETITION
Fincham; Steven M. Santisi; Norman	: UNDER 37 CFR 1.47(a)
C. Gilman and Thomas M. Sparico	:
Application No. 10/001,089	
Filed: November 2, 2001	
Title: GAMING DEVICE FOR A FLAT	
RATE PLAY SESSION AND A METHOD	
OF OPERATING GAME	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 8, 2002.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 3700.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

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JUN 22 2006

OFFICE OF PETITIONS

In re Application of :
Iyer, et al. :
Application No. 10/001,095 : ON PETITION
Filed: November 15, 2001 :
Attorney Docket No. SBL0011US :

This is a decision on the petition under 37 CFR 1.181, filed January 9, 2006 (certificate of mailing date January 3, 2006) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the May 12, 2005 non-final Office action, which set an extendable three (3) month period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on August 13, 2005. A Notice of Abandonment was mailed on December 1, 2005

Petitioners allege that the May 12, 2005 non-final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

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

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the May 12, 2005 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file and docket record for the May 12, 2005 non-final Office action was fruitless.

In addition, it is noted that the correspondence at issue was mailed to a prior address of record. It is believed that a data entry error resulted in an incorrect customer number being entered into Office databases and the subsequent misdirection of the May 12, 2005 non-final Office action.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

Petitioners have responded to the May 12, 2005 non-final Office action. After the mailing of this decision, the application will be forwarded to Technology Center AU 2167 for consideration of the amendment filed on January 9, 2006 (certificate of mailing date January 3, 2006).

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


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



**FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE 10TH FL.
NEW YORK NY 10151**

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JUL 23 2004

In re Application of :
Jorn Borch Soe et al :
Application No. 10/001,136 :
Filed: November 15, 2001 :
Attorney Docket No. 674509-2029.1 :

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition, filed July 20, 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 14, 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 1761 will consider the request for continued examination under 37 CFR 1.114.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : July 23, 2004
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of **Application No. 10/001,136**

Applicant(s) : Jorn Borch Soe et al
Application No. : 10/001,136
Filed : November 15, 2001

The above-identified application has been assigned Patent No. 6,773,732 and an issue date of August 10, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 10, 2004:

"All reference to Patent No. 6,773,732 to Jorn Borch Soe et al of Denmark for METHOD appearing in the Official Gazette of August 10, 2004 should be deleted since no patent was granted."

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910



UNITED STATES PATENT AND TRADEMARK OFFICE

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

UR

PAPER NO. 5

APP 2 2 2003

In re Application of :
Mitchell A. Friedman :
Serial No:10/001,146 : PETITION UNDER
Filed: November 01, 2002 : M.P.E.P. 708.02, IV
For: MULTIDIRECTIONAL SHAKER :

This is in response to the petition filed November 01, 2002, requesting that the above-identified application be granted Special Status under Section 708.02, IV 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

Gregory M. Stone
Whitehead, Taylor & Preston, LLP
Seven Saint Paul Street
Baltimore, MD 21202-1626



UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, MS 3999
DALLAS, TX 75265

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FEB 06 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ramesh A. Iyer et al :
Application No. 10/001,153 :
Filed: November 14, 2001 :
Attorney Docket No. TI-32606 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 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 January 26, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 27, 2005.

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

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

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


Irvin Dingle
Petitions Examiner
Office of Petitions



Paper No. 5

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of:
Schroedinger
Application No. 10/001,173
Filed: November 2, 2001
Attorney Docket No. M&N-IT256

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DEC 13 2002

OFFICE OF PETITIONS

DECISION GRANTING
PETITION

This is a decision on the February 27, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 2, 2001, rather than the presently accorded filing date of December 4, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 2, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL758652659US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 2, 2001.

In view of the above, *this petition is granted.*

This application will be returned to Initial Patent Examination Division for correction of the filing date to November 2, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy



Paper No. 5

LERNER AND GREENBERG, P.A.
PATENT ATTORNEYS AND ATTORNEYS AT LAW
Post Office Box 2480
Hollywood FL 33022-2480

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FEB 28 2002

In re Application of: :
Hoingschmid, *et al.* :
Application No. 10/001,176 :
Filed: November 2, 2001 :
Attorney Docket No. W&B-INF890 :

**OFFICE OF PETITIONS
DECISION GRANTING
PETITION**

This is a decision on the January 22, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 2, 2001 rather than the presently accorded filing date of December 4, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 2, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL758652659US (the same Express Mail number found on the original application papers located in the official file) bearing an official USPS "date in" stamp of November 2, 2001.

In view of the above, *this petition is granted.*

This application will be returned to Initial Patent Examination Division for correction of the filing date to November 2, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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AJAY A. JAGTIANI
JAGTIANI & GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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FEB 28 2005

OFFICE OF PETITIONS

In re Application of :
Malcolm J. Fraser, et al. :
Application No. 10/001,189 :
Filed: October 30, 2001 :
Attorney Docket No. 835910/92098 :

ON PETITION

This is a decision on the petition, filed February 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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.

The application is being referred to Technology Center AU 1632 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

¹The 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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SEATTLE GENETICS, INC.
21823 30TH DRIVE SE
BOTHELL WA 98021

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MAR 19 2009

In re Application of :
Peter D. Senter, et al. :
Application No. 10/001,191 :
Patent No. 6,884,869 :
Filed: November 1, 2001 :
Attorney Docket No. SGEN-0085/1000- :
00102US :

OFFICE OF PETITIONS

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

I hereby certify that this correspondence is being electronically transmitted to the Patent and Trademark Office via EFS-Web on December 01, 2008 by Roxanne J. Holmes.

/Roxanne J. Holmes/
electronic signature

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Senter *et al.*

Art Unit: 1653

Patent No.: 6,884,869 B2 dated April 26, 2005 Examiner: Lukton, David
Serial No.: 10/001,191

Filed: November 1, 2001

Attorney Docket No.: 9632-053-999
(CAM: 407517-999051)

For: PENTAPEPTIDE COMPOUNDS AND
USES RELATED THERETO

SUBMISSION UNDER 37 C.F.R. § 1.28(c)
AND NOTIFICATION OF LOSS OF SMALL
ENTITY STATUS UNDER 37 C.F.R. § 1.27(g)(2)

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

Sir:

Applicants submitted a Notification of Loss of Small Entity Status under 37 C.F.R. § 1.27(g)(2) in the above-identified application on October 23, 2006 which was entered into the Public PAIR record for this application on December 06, 2006 ("Notification"). A copy of the Notification is attached hereto as Appendix A. In addition to showing receipt at the Office of Petitions on November 06, 2006, the appended copy shows that the deficiency fee of \$715.00 was paid against the Assignee's deposit account on November 02, 2006. It has now been discovered that the Office did not change the entity status from small to large, as shown in the Maintenance Fee Statement for this application printed November 17, 2008. Applicants respectfully request that the Office change the status of the above-identified application to large entity.

03/19/2009 CKHLOK 00000005 502900 6884869
01 FC:1599 490.00 DA

Pursuant to 37 C.F.R. § 1.28(c)(2), itemized below is the fee amount for a small entity that the Office erroneously charged and the deficiency fee that is now believed to be due.

Type of Fee Erroneously Paid as a Small Entity	Date Paid	Small Entity Fee Actually Paid	Current Fee Amount For Non-Small Entity	Deficiency Fee Owed
4 th Year Maintenance Fee	October 27, 2008	\$490.00	\$980.00	\$ 490.00
TOTAL DEFICIENCY OWED				\$490.00

Please charge the total deficiency owed, estimated to be **\$490.00**, to Seattle Genetics, Inc. **Deposit Account No. 50-2900**. As this is an error by the Office, no other fee or charge is believed to be due.

The Office is welcome to contact any of the practitioners associated with Customer No. 51946 if further discussion would help expedite this request.

Date: December 01, 2008

Respectfully submitted,

/Roxanne J. Holmes/

53,031

Roxanne J. Holmes

Reg. No.

SEATTLE GENETICS, INC.
21823 30th Drive SE
Bothell, Washington 98021
Tel: (425) 527-4000
Fax: (425) 527-4001



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Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

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NOV 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Albert Johnnes Joseph Van Ooijen et al.	:	
Application No. 10/001,192	:	DECISION ON PETITION
Filed: October 30, 2001	:	TO WITHDRAW
Attorney Docket No. 246152010401	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 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 Thomas E. Ciotti on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

(e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). The power of attorney filed on November 6, 2006 does not include one of the above two options.

There is no outstanding Office action at this time.

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



Terri Williams
Petitions Examiner
Office of Petitions

cc: **Albert Johannes Joseph Van Ooijen**
2275 XX Voorburg Netherlands
Overburgkade 78
Netherlands

cc: **Mr. Bryan H. Davidson**
Nixon & Vanderhye P.C.
11th Floor
901 North Glebe Road
Arlington, VA 22203-1808


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UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/001,192	10/30/2001	Albert Johannes Joseph Van Ooijen	246152010401

25225
 MORRISON & FOERSTER LLP
 12531 HIGH BLUFF DRIVE
 SUITE 100
 SAN DIEGO, CA 92130-2040

CONFIRMATION NO. 1316
 OC000000021364037
 OC000000021364037

Date Mailed: 11/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

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

TERRI S WILLIAMS
 OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/001,192	10/30/2001	Albert Johnnes Joseph Van Ooijen	246152010401

25225
 MORRISON & FOERSTER LLP
 12531 HIGH BLUFF DRIVE
 SUITE 100
 SAN DIEGO, CA 92130-2040

CONFIRMATION NO. 1316

OC000000021364030

OC000000021364030

Date Mailed: 11/27/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/06/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

TERRI S WILLIAMS
 OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY



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STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of
Cerney et al.
Application No. 10/001,211
Filed: October 24, 2001
Attorney Docket No. 5791.US.D1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 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 May 2, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on August 3, 2003. A Notice of Abandonment was mailed on January 22, 2004.

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

This matter is being referred to Technology Center AU 1634 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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Kilpatrick Stockton LLP- Adobe Systems, Inc. 58083
Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta GA 30309-4530

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,620,912 : DECISION ON REQUEST
Benson, et al. : FOR
Issue Date: November 17, 2009: RECONSIDERATION OF
Application No.10/001,212 : PATENT TERM ADJUSTMENT
Filed: October 25, 2001 : and
Atty Docket No.58083/374885 : NOTICE OF INTENT TO ISSUE
(M041) : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 14, 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 one thousand, three hundred and thirty-four (1,334) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and thirty-four (1,334) days is **GRANTED**.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges receipt of the fee under 37 CFR 1.18(e). No additional fees are due.

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 **one thousand, three hundred and thirty-four (1,334) days.**

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,620,912 B1

DATED : Nov. 17, 2009

INVENTOR(S) : Benson 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 (1215) days

Delete the phrase "by 1215 days" and insert – by 1334 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/21/07

Paper No.: _____

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6,937,729

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Approved by Examiner Fazl Erden

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3000

Nathan Flynn
SPE

2826
Art Unit



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PETER C. LAURO
101 FEDERAL STREET
BOSTON, MA 02110

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DEC 08 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
Lonnie O. Ingram et al :
Application No. 10/001,218 :
Filed: November 30, 2001 :
Attorney Docket No. 49950-59824CON4 :

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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



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Paper No. None

Scott Ausenhuis, ESQ.
Townsend Townsend & Crew
1200 Seventeenth Street
Suite 27000
Dever CO 80202

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas J. Schall et al.	:	
Application No. 10/001,221	:	DECISION ON PETITIONS UNDER
Filed: October 30, 2001	:	37 C.F.R. §§1.78(A)(3) and 1.78(A)(6)
Attorney Docket Number: 10709-014	:	
Title: METHODS AND COMPOSITIONS FOR	:	
INDUCING AN IMMUNE RESPONSE	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 10, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed U.S. application 09/834,814 and PCT application PCT/US01/12162, both filed April 12, 2001, and 60/198,839, filed April 21, 2000, as set forth in the concurrently filed amendment.

The petitions are **granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional, PCT, and provisional applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, both the nonprovisional and the PCT applications were filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/198,839 which was filed on April 21, 2000, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed applications has been included in an amendment to the first sentence of the specification following the title and in an Application Data Sheet, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the above-noted, prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) 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 instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition. Any questions concerning this matter may be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

This application is being forwarded to Technology Center Art Unit 1642 for appropriate action on the amendment submitted September 10, 2004, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional and PCT applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR §1.78(a)(5) for the benefit of the prior-filed provisional application.



Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected filing receipt



MAILED

JAN 24 2003

Technology Center 2100

Paper No. 8

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063

In re Application of: Harry Vlahos, et al.)	
Application No. 10/001,226)	
Filed: October 29, 2001	)	DECISION ON REQUEST FOR
For: INTEGRATING HETEROGENEOUS	)	WITHDRAWAL AS ATTORNEY
DATA AND TOOLS)	

This is a decision on the Request To Withdraw from Representation filed November 18, 2002.

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

The request is **GRANTED**.

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



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

cc: Dr Bala S. Manian
Chairman of the Board
Entigen Corporation
5150 El Camino Real, Suite B23
Los Altos, CA 94022



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Paper No.

KLARQUIST SPARKMAN, LLP
One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

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MAY 24 2004

OFFICE OF PETITIONS

In re Application of :
Autrey et al. :
Application No. 10/001,235 : DECISION ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 23-59243 :

This is a decision on the "PETITION FOR REVIVAL UNDER 37 C.F.R. 1.137(b) OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY," filed March 22, 2004 to revive the above-identified application.

The petition is **GRANTED**.

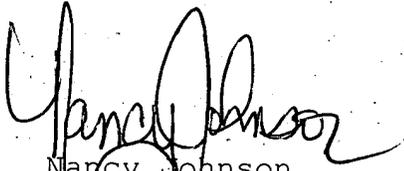
The above-identified application became abandoned for failure to file a timely and proper response to the final rejection mailed August 19, 2003. See § 1.135(c). The Office action set a shortened statutory period of three months for reply, with extensions of time obtainable under § 1.136(a). An amendment, made timely by an accompanying petition for a one-month extension of time, was filed on December 22, 2003 (certificate of mailing December 19, 2003); however, it was determined by the examiner not to place the application in condition for allowance (See Advisory Action mailed March 4, 2004). No further reply having been received and no further extension of time obtained, the application became abandoned. A Notice of Abandonment was mailed on March 29, 2004.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). The petition includes payment of the petition fee, the required reply in the form of a Notice of Appeal (and appeal fee) and a statement of unintentional delay.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Pursuant to this decision, a request to process the Notice of Appeal in due course has been forwarded to the examiner of record.

Telephone inquiries regarding this decision may be made to the undersigned at (703) 305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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James L Katz
Brinks Hofer Gilson & Lione
P O Box 10395
Chicago, IL 60610

SEP 10 2004
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3800

In re application of : **DECISION ON PETITION**
Neal Brady et al. : **TO MAKE SPECIAL**
Application No. 10/001,237 : **(ACCELERATED**
Filed: October 30, 2001 : **EXAMINATION)**
For: NETWORK AND METHOD FOR TRADING :
DERIVATIVES :

This is in response to the petition filed on April 2, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/vdb: 8/26/04



BRINKS HOFER GILSON & LIONE / CME
PO BOX 10395
CHICAGO IL 60610

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JUL 13 2007

OFFICE OF PETITIONS

In re :
Brady, et al. : DECISION REGARDING
Application No. 10/001,237 : PATENT TERM ADJUSTMENT
Filed: October 30, 2001 :
Patent No. 6,979,556 :
:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b)", filed April 6, 2007. Patentees request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred twenty-nine (729) days to nine hundred one (901) days.

The application for patent term adjustment is DISMISSED.

On April 5, 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 seven hundred twenty-nine (729) days. On April 6, 2007, Applicants timely¹ 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 nine hundred one (901) days.

Patentees state that the patent issuing is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of seven hundred twenty-nine (729) days based on an adjustment for PTO delay of six hundred twenty-seven (627) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), two hundred sixteen (216) and one hundred thirteen (113) days

¹ Applicants filed the application for patent term adjustment together with the filing of the issue fee.

pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delays of fifty-five (55) and one hundred seventy-two (172) 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 hundred seventy-two (172) days is at issue.

A review of the application file reveals that applicants filed a Supplemental Information Disclosure Statement (IDS) on January 8, 2007, after they had previously filed a response on July 20, 2006. The IDS did not contain a proper 37 C.F.R. § 1.704(d) statement. The IDS contained a statement that "each item of information contained in this Statement was first cited in a communication from a foreign patent office in a counterpart application, and that this communication was not received by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this Statement." § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application and that this communication was not received" more than thirty days prior to the filing of the IDS.

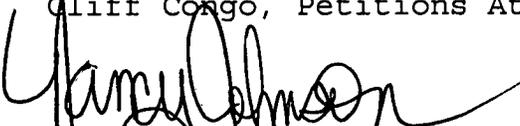
Applicants should have mirrored the language as required by § 1.704(d). Accordingly, applicant delay of one hundred seventy-two (172) days was properly assessed pursuant to 37 C.F.R. § 1.704(c)(8).

In view thereof, the correct determination of patent term adjustment is **seven hundred twenty-nine (729) days**.

If applicants want to make the proper assertion, then applicants may file a Request for Reconsideration of this patent term adjustment decision, with a statement mirroring the language of § 1.704(d). Patentees are given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

Receipt of the fee under 37 C.F.R. § 1.18(e) is acknowledged.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.


Nancy Johnson
Senior Attorney
Office of Petitions



BRINKS HOFER GILSON & LIONE / CME
PO BOX 10395
CHICAGO IL 60610

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JAN 16 2008

OFFICE OF PETITIONS

In re :
Brady, et al. : DECISION REGARDING
Application No. 10/001,237 : PATENT TERM ADJUSTMENT
Filed: October 30, 2001 :
Patent No. 6,979,556 :
:

This letter is in response to the "AMENDED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(b)", filed August 20, 2007. Applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred twenty-nine (729) days to nine hundred one (901) 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 **nine hundred one (901) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 5, 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 seven hundred twenty-nine (729) days. On April 6, 2007, Applicants timely¹ 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 nine hundred one (901) days. However, the request was dismissed in a decision mailed on July 13, 2007.

¹ Applicants filed the application for patent term adjustment together with the filing of the issue fee.

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

The Office initially determined a patent term adjustment of seven hundred twenty-nine (729) days based on an adjustment for PTO delay of six hundred twenty-seven (627) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), two hundred sixteen (216) and one hundred thirteen (113) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by Applicants' delays of fifty-five (55) and one hundred seventy-two (172) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(c)(8).

Applicants filed an application for patent term adjustment on April 6, 2007. However, the request was dismissed in a decision mailed on July 13, 2007, because Applicants did not include a proper 37 C.F.R. § 1.704(d) statement.

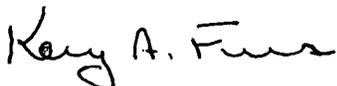
With the instant request for reconsideration, patentees have certified under 37 C.F.R. § 1.704(d) that "each item of information contained in the information disclosure statement (1/8/07 I.D.S.) was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than 30 days prior to the filing of the information disclosure statement (1/8/07 I.D.S.).

Accordingly, the petition is granted.

In view thereof, the correct determination of PTA at the time of issuance is **nine hundred one (901)** days (956 days of PTO delay and 55 days of applicant delay).

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



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

Day : Tuesday
Date : 1/15/2008**PALM INTRANET**

Time: 11:57:01

PTA Calculations for Application: 10/001237			
Application Filing Date:	10/30/2001	PTO Delay (PTO):	956
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	227
Post-Issue Petitions:	0	Total PTA (days):	901
PTO Delay Adjustment:	172		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
88	01/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	172		
59	03/13/2007	MAIL NOTICE OF ALLOWANCE	113		50
58	01/08/2007	REFERENCE CAPTURE ON IDS			
57	01/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		172	50
56	02/01/2007	CORRESPONDENCE ADDRESS CHANGE			
55	12/04/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	11/13/2006	ISSUE REVISION COMPLETED			
53	11/13/2006	NOTICE OF ALLOWABILITY			
52	10/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
51	08/08/2006	DATE FORWARDED TO EXAMINER			
50	07/20/2006	RESPONSE AFTER NON-FINAL ACTION			
49	06/02/2006	MAIL NON-FINAL REJECTION			
48	05/30/2006	NON-FINAL REJECTION			
47	03/06/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	03/06/2006	REFERENCE CAPTURE ON IDS			
45	03/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	03/15/2006	DATE FORWARDED TO EXAMINER			
43	03/06/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
42	03/15/2006	DATE FORWARDED TO EXAMINER			
41	03/06/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
40	03/15/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			

39	03/06/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	01/25/2006	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
37	12/27/2005	EX PARTE QUAYLE ACTION			
36	10/28/2005	DATE FORWARDED TO EXAMINER			
35	10/21/2005	AMENDMENT AFTER FINAL REJECTION			
34	10/07/2005	MAIL FINAL REJECTION (PTOL - 326)	216		31
33	10/03/2005	FINAL REJECTION			
32	05/25/2005	DATE FORWARDED TO EXAMINER			
31	11/05/2004	RESPONSE AFTER NON-FINAL ACTION			
30	09/17/2004	REFERENCE CAPTURE ON IDS			
29	02/11/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
28	12/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		55	31
27	11/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	09/17/2004	MAIL NON-FINAL REJECTION	627		-1
25	09/10/2004	MAIL-RECORD PETITION DECISION OF GRANTED TO MAKE SPECIAL			
24	08/16/2004	NON-FINAL REJECTION			
23	05/07/2004	PRELIMINARY AMENDMENT			
22	04/26/2004	NEW OR ADDITIONAL DRAWING FILED			
21	05/21/2004	CORRESPONDENCE ADDRESS CHANGE			
20	05/24/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
19	05/07/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	05/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	04/04/2004	PETITION ENTERED			
16	04/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/05/2004	PRELIMINARY AMENDMENT			
14	04/05/2004	WORKFLOW INCOMING AMENDMENT IFW			
13	04/02/2004	WORKFLOW INCOMING PETITION IFW			
12	04/02/2004	WORKFLOW INCOMING PETITION IFW			
11	10/31/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	10/22/2002	PRELIMINARY AMENDMENT			
9	04/03/2002	APPLICATION DISPATCHED FROM OIPE			
8	04/03/2002	APPLICATION IS NOW COMPLETE			
7	02/07/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			

6	02/07/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	12/28/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
2	12/11/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/30/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

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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DEC 26 2006

OFFICE OF PETITIONS

In re Application of :
Watanabe et al. : DECISION ON PETITION
Application No. 10/001,256 :
Filed: November 2, 2001 :
Attorney Docket No. U 013698-2:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed September 18, 2006.

By Notice of Abandonment mailed September 8, 2006, applicants were advised that the above-identified application had become abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on March 30, 2006 and because the period for seeking court review of the decision has expired and there are no allowed claims.

In response, applicants timely filed the instant petition, requesting withdrawal of the holding of abandonment on the basis that:

the notice erroneously states that the period for seeking court review of the Board of Patent Appeals and Interference decision of March 30, 2006 expired, but Applicants respectfully note that they filed a Request for Rehearing on May 30, 2006 as evidenced by the attached PAIR printout, which shows that the Board rendered a decision on the Request for Rehearing on July 28, 2006. Applicants further state that upon applicable rules, applicants have two (2) months from the Board's decision (i.e., until September 28, 2006, to file a notice of appeal to the Court of Appeals for the Federal Circuit (see 37 CFR 1.304(a)(1)), and that period (as of the filing of the petition) had not run.

Applicants are correct. 37 CFR 1.304 provides the Time for appeal or civil action, as follows:

(a)(1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request. In contested cases before the Board of Patent Appeals and Interferences, the time for filing a cross-appeal or cross-action expires:

(i) Fourteen days after service of the notice of appeal or the summons and complaint; or

(ii) Two months after the date of decision of the Board of Patent Appeals and Interferences, whichever is later.

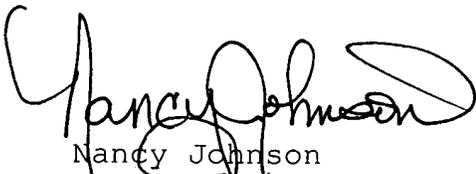
In view thereof, the notice of abandonment mailed September 8, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1714 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the request for continued examination (RCE) filed October 2, 2006.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



Paper No. 12

MORRIS E. COHEN
SUITE 217
1122 CONEY ISLAND AVENUE
BROOKLYN, NY 11230-2345

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APR 19 2004

OFFICE OF PETITIONS

In re Application of
Nouri E. Hakim
Application No. 10/001,257
Filed: November 27, 2001
Attorney Docket No. 4009.007.002

:
: **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 June 9, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 09/138,588, filed August 21, 1998, 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 prior-filed provisional Application No. 60/056,218, filed August 21, 1997, set forth in the amendment submitted with the instant petition.

The petition is **Granted**.

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

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

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

The instant application was filed on November 27, 2001 and was pending at the time of filing of the instant petition. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3).

As to the benefit claim under 37 CFR 1.78(a)(6):

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

- (1) the surcharge set forth in 37 CFR 1.17(t);
- (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional; and
- (3) the reference to the prior filed provisional application supplied in an application data sheet (ADS) 37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(i). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 27, 2001. Intermediate Application No. 09/138,588, was filed August 21, 1998, within twelve months of provisional Application No. 60/056,218, which was filed on August 21, 1997, for which priority is claimed. A reference to the prior-filed application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the nonprovisional application for which the benefit is sought. See 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to Technology Center Art Unit 3727 for processing the amendment submitted June 9, 2003, and for processing and consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.



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

ATTACHMENT : Corrected Filing Receipt



SONNENSCHN NATH & ROSENTHAL
P.O. Box 061080
Wacker Drive Station
Sears Tower
Chicago IL 60606-1080

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Charles G. WILLIAMSON :
Application No. 10/001,261 : **ON PETITION**
Filed: November 1, 2001 :
Attorney Docket No. 09741620/0205 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of \$1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of November 3, 2004 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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

Application No. 10/001,261

the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2121 for appropriate action on the concurrently filed amendment.

A handwritten signature in black ink, appearing to read "Brian Hearn". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke at the end.

Brian Hearn
Petitions Examiner
Office of Petitions



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APR 17 2007

OFFICE OF PETITIONS

**JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017**

In re Application of :

AERTS, Eric :

Application No. 10/001,286 :

Filed: November 30, 2001 :

Attorney Docket No. 0001-01-01 :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.136(b), filed March 01, 2007.

The request is **APPROVED**.

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

The request was signed by Rattan Nath, on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

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

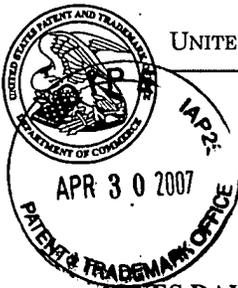
Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ERIC AERTS
134 TUSCAN ROAD
MAPLEWOOD, NJ 07040**

cc: **MR. DIETER KEMP
105 EAST 63RD STREET
NEW YORK, NY 10021**

AF/IFW



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APR 17 2007

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :

AERTS, Eric :

Application No. 10/001,286 :

Filed: November 30, 2001 :

Attorney Docket No. 0001-01-01 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 01, 2007.

The request is **APPROVED**.

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

The request was signed by Rattan Nath, on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ERIC AERTS**
134 TUSCAN ROAD
MAPLEWOOD, NJ 07040

cc: **MR. DIETER KEMP**
105 EAST 63RD STREET
NEW YORK, NY 10021



JOHN LEZDEY
JOHN LEZDEY & ASSOCIATES
4625 EAST BAY DRIVE
SUITE 302
CLEARWATER, FL 33764

COPY MAILED

JUN 29 2005

OFFICE OF PETITIONS

In re Application of
John Lezdey and Jarrett Lezdey
Application No. 10/001,311
Filed: November 23, 2001
Attorney Docket No. 1434-C
For: Antimicrobial Compositions

Decision on Petition

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 23, 2004. A Notice of Abandonment was mailed on February 14, 2005.

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

- (1) the required reply,
- (2) the petition fee, and
- (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.

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).

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."¹ The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"²

¹ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

Petitioner must show he treated the instant application the same as a reasonable and prudent person would treat his or her most important business. Petitioner must show the entire delay from September 23, 2004, until March 14, 2005, was unavoidable.

Petitioner suffered an injury on August 7, 2004. Petitioner returned to work on December 3, 2004.

Petitioner implies he was unable to work until December 3, 2004. However, petitioner filed several applications between the date of his injury and his return to the Office.

Application no. 10/935,536 was filed on September 7, 2004.
Application no. 10/951,051 was filed on September 26, 2004.
Application no. 29/214,128 was filed on September 28, 2004.
Application no. 10/099,037 was filed on November 29, 2004.

If petitioner was able to file these applications, why was petitioner unable to file a response and three month extension of time by December 23, 2004? Petitioner has failed to show the instant application was treated the same as petitioner would treat his most important business. Any request for reconsideration under 37 CFR 1.137(a) should discuss the applications above *and* all applications in which papers were filed by petitioner or Lezdey and Associates between August 7, 2004, and March 14, 2005.

Petitioner returned to the Office on December 3, 2004. With payment of a three month extension of time (\$510), a reply to the final Office action could have been filed as late as December 23, 2004, in order to avoid the abandonment of the application. Petitioner did not file a reply, and petition, until March 14, 2005. Petitioner has failed to demonstrate a reply could not have been filed prior to March 14, 2005. The Office assumes petitioner was capable of preparing a reply after December 3, 2004, since several applications were filed between December 3, 2004, and March 14, 2005.

Application no. 11/006,279 was filed on December 7, 2004.
Application no. 11/010,028 was filed on December 10, 2004.
Application no. 11/010,219 was filed on December 10, 2004.
Application no. 11/018,620 was filed on December 21, 2004.
Application no. 11/021,589 was filed on December 22, 2004.
Application no. 11/030,626 was filed on January 6, 2005.
Application no. 11/030,826 was filed on January 7, 2005.
Application no. 11/041,128 was filed on January 21, 2005.
Application no. 11/065,476 was filed on February 24, 2005.

Petitioner has failed to prove he was incapable of filing a timely reply and has failed to prove the entire delay in the submission of a reply was unavoidable.

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

Petitioner bears the burden of proof. Petitioner has failed to prove the entire delay in the submission of a reply to the final Office action was unavoidable.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee (\$750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A copy of a blank petition form is enclosed for petitioner's convenience. A version of the form which can be completed online, and then printed and mailed, can be found at <http://www.uspto.gov/web/forms/index.html>. Petitioner can scroll down to form PTO/SB/64 and click on 64a in the second column to the right.

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).

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

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

By facsimile: (703) 872-9306
Attn: Office of Petitions .

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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



Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/65



JOHN LEZDEY & ASSOCIATES
140 Marcdale Boulevard
Indian Rocks FL 33785

COPY MAILED

MAY 01 2007

OFFICE OF PETITIONS

In re Application of :
John Lezdey and Jarrett Lezdey :
Application No. 10/001,311 : Decision on Petition
Filed: November 23, 2001 :
Attorney Docket No. 1434-C :
For: Antimicrobial Compositions :

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

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 23, 2004. A Notice of Abandonment was mailed on February 14, 2005.

A petition under 37 CFR 1.137(a) was filed March 14, 2005.

A decision dismissing the petition was mailed June 26, 2005.

The instant petition was filed December 26, 2006. The instant petition requests revival for copendency with another application. Application No. 11/711,272 is a continuation in part of the instant application.

The instant petition is untimely. The June 26, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted." The instant petition was not filed until 18 months after the mailing of the June 26, 2005 decision. Therefore, the petition is dismissed as untimely.

The instant petition fails to establish the entire delay in filing a reply was unavoidable. The petition fails to discuss the issues raised in the prior decision. The prior decision stated,

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

- (1) the required reply,
- (2) the petition fee, and
- (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.

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).

“[T]he question of whether an applicant’s delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account.”¹ The general question asked by the Office is: “Did petitioner act as a reasonable and prudent person in relation to his most important business?”²

Application of the standard to the current facts and circumstances

Petitioner must show he treated the instant application the same as a reasonable and prudent person would treat his or her most important business. Petitioner must show the entire delay from September 23, 2004, until March 14, 2005, was unavoidable.

Petitioner suffered an injury on August 7, 2004. Petitioner returned to work on December 3, 2004.

Petitioner implies he was unable to work until December 3, 2004. However, petitioner filed several applications between the date of his injury and his return to the Office.

- Application no. 10/935,536 was filed on September 7, 2004.
- Application no. 10/951,051 was filed on September 26, 2004.
- Application no. 29/214,128 was filed on September 28, 2004.
- Application no. 10/099,037 was filed on November 29, 2004.

If petitioner was able to file these applications, why was petitioner unable to file a response and three month extension of time by December 23, 2004? Petitioner has failed to show the instant application was treated the same as petitioner would treat his most important business. Any request for reconsideration under 37 CFR 1.137(a) should

¹ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

² See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

discuss the applications above *and* all applications in which papers were filed by petitioner or Lezdey and Associates between August 7, 2004, and March 14, 2005.

Petitioner returned to the Office on December 3, 2004. With payment of a three month extension of time (\$510), a reply to the final Office action could have been filed as late as December 23, 2004, in order to avoid the abandonment of the application. Petitioner did not file a reply, and petition, until March 14, 2005. Petitioner has failed to demonstrate a reply could not have been filed prior to March 14, 2005. The Office assumes petitioner was capable of preparing a reply after December 3, 2004, since several applications were filed between December 3, 2004, and March 14, 2005.

Application no. 11/006,279 was filed on December 7, 2004.
Application no. 11/010,028 was filed on December 10, 2004.
Application no. 11/010,219 was filed on December 10, 2004.
Application no. 11/018,620 was filed on December 21, 2004.
Application no. 11/021,589 was filed on December 22, 2004.
Application no. 11/030,626 was filed on January 6, 2005.
Application no. 11/030,826 was filed on January 7, 2005.
Application no. 11/041,128 was filed on January 21, 2005.
Application no. 11/065,476 was filed on February 24, 2005.

Petitioner has failed to prove he was incapable of filing a timely reply and has failed to prove the entire delay in the submission of a reply was unavoidable.

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

Petitioner bears the burden of proof. Petitioner has failed to prove the entire delay in the submission of a reply to the final Office action was unavoidable.

Since the instant petition fails to address the issues raised in the prior decision and fails to prove the entire delay was unavoidable, the petition must be dismissed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee (\$750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A version of the form which can be completed online, and then printed and mailed, can be found at <http://www.uspto.gov/web/forms/index.html>. Petitioner can scroll down to form PTO/SB/64

and click on 64a in the second column to the right.

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).

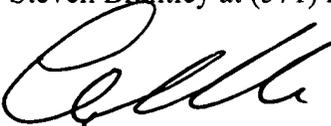
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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



Charles Steven Brantley
Petitions Attorney
Office of Petitions



JOHN LEZDEY & ASSOCIATES
SUITE 118
2401 WEST BAY DRIVE
LARGO, FL 33770

COPY MAILED

SEP 07 2007

OFFICE OF PETITIONS

In re Application of :
John Lezdey and Jarrett Lezdey :
Application No. 10/001,311 :
Filed: November 23, 2001 :
Attorney Docket No. 1434-C :
For: Antimicrobial Compositions :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed July 2, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

Facts:

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months.

"The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."¹

On August 7, 2004, while in Cape Cod, Attorney John Lezdey, suffered an accident. The accident resulted in spinal fracture and limited leg movement.

Attorney Lezdey states, "In the hospitals, Petitioner was bed ridden and had no files because he expected to return to the Florida office by September 1, 2004."²

¹ March 14, 2005 petition.

² July 2, 2007 petition.

Attorney Lezdey was hospitalized until September 10, 2004.

Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned as of midnight on September 23, 2004.

On September 24, 2004, Attorney Lezdey signed two application transmittal sheets, fee transmittal sheets, and two Certificates of Express Mailing (hereafter "COE"). The resulting applications are Application No. 10/951,051 and Application No. 10/951,190.

On September 27, 2004, Attorney Lezdey signed an application transmittal sheet, fee transmittal sheet, and a COE. The resulting application was Application No. 29/214,128. The Office notes, although the COE date is September 27, 2004, Office records indicate the date-in on the Express Mail label was September 28, 2004.

Attorney Lezdey underwent physical therapy until October 2004.

Attorney Lezdey returned to Florida on November 24, 2004. Attorney Lezdey states he did not return to the Office until December 3, 2004.

The papers filed for Application No. 10/999,037, are inconsistent. The date by Attorney Lezdey's signatures on the application transmittal page and the fee transmittal page is December 1, 2004. However, the COE date was November 29, 2004, and the application was assigned a filing date of November 29, 2004.

On December 6, 2007, Attorney Lezdey signed an application transmittal sheet, fee transmittal sheet, and a COE. The resulting application was Application No. 11/006,279. The Office notes, although the COE date is December 7, 2004, Office records indicate the date-in on the Express Mail label was December 8, 2004.

On December 9, 2007, Attorney Lezdey signed an application transmittal sheet, fee transmittal sheet, and a COE. The resulting application was Application No. 11/010,028. The Office notes, although the COE date is December 9, 2004, Office records indicate the date-in on the Express Mail label was December 10, 2004.

Attorney Lezdey filed Application no. 11/010,219 on December 10, 2004. The Office notes the COE date appears to disagree with the date-in on the Express Mail label.

Attorney Lezdey filed Application no. 11/018,620 on December 21, 2004.

Attorney Lezdey filed Application no. 11/021,589 on December 22, 2004.

A reply to the June 23, 2004 Office action, mailed for the instant application, could have been timely filed as late as December 23, 2004, with payment for a three-month extension of time. In other words, petitioner could have prevented the abandonment of the instant application by filing a reply and payment for a three-month extension of time on or before December 23, 2004.

The current petition states, "In January, 2005 Petitioner filed a Petition to Make Special and to request that the Petition also be considered as Unintentional. This petition was filed after Petitioner returned to Florida."

Office records fail to indicate any papers were filed in the instant application during January of 2005.

Attorney Lezdey filed Application no. 11/030,626 on January 6, 2005.

Attorney Lezdey filed Application no. 11/030,826 on January 7, 2005.

Attorney Lezday filed Application no. 10/041,128 on January 21, 2005. The Office notes the COE date appears to disagree with the date-in on the Express Mail label.

A Notice of Abandonment was mailed for the instant application on February 14, 2005.

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."³

A petition under 37 CFR 1.137(a) was filed March 14, 2005 (Certificate of Mailing date of March 10, 2005).

A decision dismissing the March 14, 2005 petition was mailed June 29, 2005. The decision stated,

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A request to change the address of record was filed September 8, 2005.

A renewed petition was not filed until December 26, 2006. The renewed petition stated a continuation-in-part application had been filed and petitioner wished to revive the application solely for copendency.

The December 26, 2006 renewed petition failed to discuss papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The renewed petition failed to discuss the extent to which petitioner handled other work-related matters during the relevant time period.

³ March 14, 2005 petition.

A petition to make special was filed January 13, 2006. The Office notes the petition to make special is currently moot since petitioner seeks to revive the instant application solely for copendency with the continuation-in-part application.

A decision dismissing the December 26, 2006 was mailed May 1, 2007. The decision repeated the following statement made in the prior decision:

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The December 26, 2006 renewed petition was filed almost 18 months after the mailing date of the June 29, 2005 decision. The renewed petition was filed beyond the maximum extendable period of time set in the June 29, 2005 decision. The renewed petition failed to provide any explanation for the almost 18 months of delay. The May 1, 2007 decision stated,

The instant petition is untimely. The June 26, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted." The instant petition was not filed until 18 months after the mailing of the June 26, 2005 decision. Therefore, the petition is dismissed as untimely.

The instant petition was filed July 2, 2007.

Discussion:

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."⁴ The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"⁵

Petitioner has failed to prove the entire delay in filing a grantable petition was unavoidable.

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

⁵ See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

The period of delay prior to March 14, 2005:

Petitioner has stated, "The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."⁶ Petitioner has stated, "The applications [filed during September and November of 2004] were in condition for filing prior to the accident and were awaiting Petitioner's return."⁷

Petitioner has failed to prove Attorney Lezdey's was able to sign and mail several applications, but was unable to sign and mail the prepared reply to the June 23, 2004 Office action.

If all the applications mailed during September and November of 2004 were fully prepared prior to the accident, why did petitioner not mail the applications prior to going to Cape Cod?

After Attorney Lezdey's return to the Office, but prior to December 23, 2004, Attorney Lezdey filed five different applications. If Attorney Lezdey was able to file five applications, why was he unable to file the reply to the June 23, 2004 Office action along with a request for a three-month extension of time?

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."⁸ Attorney Lezdey has failed to distinguish and discuss the period of delay arising from his failure to know he needed to file a reply rather than his health condition. Petitioner must prove the entire delay in the submission of a grantable petition was unavoidable. The Office notes a petition under 37 CFR 1.137(a) was not filed until March 14, 2005 (Certificate of Mailing date of March 10, 2005).

Petitioner has still not discussed all papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The instant petition fails to discuss the extent to which petitioner handled other work-related matters during the relevant time period.

The period of delay from June 29, 2005 until December 26, 2006:

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A renewed petition was not filed until December 26, 2006. The renewed petition fails to establish the December 26, 2006 petition was timely or prove the delay in filing the December 26, 2006 petition was unavoidable.

In order for the requested relief to be granted, petitioner must prove the entire delay in filing a grantable petition was unavoidable.

⁶ March 14, 2005 petition.

⁷ July 2, 2007 petition.

⁸ March 14, 2005 petition.

Conclusion:

Petitioner has failed to prove the entire delay in the filing of a grantable petition was unavoidable. Therefore, the petition is dismissed.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee (\$750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

A version of the form which can be completed online, and then printed and mailed, can be found at <http://www.uspto.gov/web/forms/index.html>. Petitioner can scroll down to form PTO/SB/64 and click on 64a in the second column to the right.

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

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

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


Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



JOHN LEZDEY & ASSOCIATES
SUITE 118
2401 WEST BAY DRIVE
LARGO, FL 33770

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
John Lezdey and Jarrett Lezdey :
Application No. 10/001,311 : Decision on Petition
Filed: November 23, 2001 :
Attorney Docket No. 1434-C :
For: Antimicrobial Compositions :

This is a decision on the petition under 37 CFR 1.137(a), filed October 23, 2007, to revive the above-identified application. The petition is filed in the alternative under 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(b) 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 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Facts:

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months.

"The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."¹

On August 7, 2004, while in Cape Cod, Attorney John Lezdey, suffered an accident. The accident resulted in spinal fracture and limited leg movement.

Attorney Lezdey states, "In the hospitals, Petitioner was bed ridden and had no files because he expected to return to the Florida office by September 1, 2004."²

¹ March 14, 2005 petition.

Attorney Lezdey was hospitalized until September 10, 2004.

Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned as of midnight on September 23, 2004.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 10/951,051 filed by Express Mail on September 24, 2004,
- (2) Application No. 10/951,190 filed by Express Mail on September 24, 2004, and
- (3) Application No. 29/214,128 filed by Express Mail on September 27, 2004.

Attorney Lezdey underwent physical therapy until October 2004.

Attorney Lezdey returned to Florida on November 24, 2004. Attorney Lezdey states he did not return to the Office until December 3, 2004.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 10/999,037 filed by Express Mail on November 29, 2004,
- (2) Application No. 11/006,279 filed by Express Mail on December 8, 2004,
- (3) Application No. 11/010,028 filed by Express Mail on December 10, 2004,
- (4) Application No. 11/010,219 filed by Express Mail on December 9, 2004,
- (5) Application No. 11/018,620 filed by Express Mail on December 10, 2004, and
- (6) Application No. 11/021,589 filed by Express Mail on December 22, 2004.

A reply to the June 23, 2004 Office action, mailed for the instant application, could have been timely filed as late as December 23, 2004, with payment for a three-month extension of time. In other words, petitioner could have prevented the abandonment of the instant application by filing a reply and payment for a three-month extension of time on or before December 23, 2004.

The current petition states, "In January, 2005 Petitioner filed a Petition to Make Special and to request that the Petition also be considered as Unintentional. This petition was filed after Petitioner returned to Florida." Office records fail to indicate any papers were filed in the instant application during January of 2005.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 11/030,626 filed by Express Mail on January 6, 2005,
- (2) Application No. 11/030,826 filed by Express Mail on January 7, 2005, and
- (3) Application No. 11/041,128 filed by Express Mail on January 21, 2005.

A Notice of Abandonment was mailed for the instant application on February 14, 2005.

² July 2, 2007 petition.

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."³

A petition under 37 CFR 1.137(a) was filed March 14, 2005 (Certificate of Mailing date of March 10, 2005).

A decision dismissing the March 14, 2005 petition was mailed June 29, 2005. The decision stated,

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A request to change the address of record was filed September 8, 2005.

A renewed petition was not filed until December 26, 2006. The renewed petition stated a continuation-in-part application had been filed and petitioner wished to revive the application solely for copendency.

The December 26, 2006 renewed petition failed to discuss papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The renewed petition failed to discuss the extent to which petitioner handled other work-related matters during the relevant time period. A petition to make special was filed January 13, 2006. The Office notes the petition to make special is currently moot since petitioner seeks to revive the instant application solely for copendency with the continuation-in-part application.

A decision dismissing the December 26, 2006 was mailed May 1, 2007. The decision repeated the following statement made in the prior decision:

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The December 26, 2006 renewed petition was filed almost 18 months after the mailing date of the June 29, 2005 decision. The renewed petition was filed beyond the maximum extendable

³ March 14, 2005 petition.

period of time set in the June 29, 2005 decision. The renewed petition failed to provide any explanation for the almost 18 months of delay. The May 1, 2007 decision stated,

The instant petition is untimely. The June 26, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted." The instant petition was not filed until 18 months after the mailing of the June 26, 2005 decision. Therefore, the petition is dismissed as untimely.

Petitioner filed a request for reconsideration on July 2, 2007. The petition was dismissed in a decision mailed on September 7, 2007.

Discussion:

The petition under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."⁴ The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"⁵

Petitioner has failed to prove the entire delay in filing a grantable petition was unavoidable.

Petitioner appears to contend Lezdey had prepared the following applications prior to his accident and only needed to review and check the applications:

- (1) Application No. 10/951,051 filed by Express Mail on September 24, 2004,
- (2) Application No. 10/951,190 filed by Express Mail on September 24, 2004,
- (3) Application No. 29/214,128 filed by Express Mail on September 27, 2004,
- (4) Application No. 10/999,037 filed by Express Mail on November 29, 2004,
- (5) Application No. 11/006,279 filed by Express Mail on December 8, 2004,
- (6) Application No. 11/010,028 filed by Express Mail on December 10, 2004,
- (7) Application No. 11/010,219 filed by Express Mail on December 9, 2004,
- (8) Application No. 11/018,620 filed by Express Mail on December 10, 2004,
- (9) Application No. 11/021,589 filed by Express Mail on December 22, 2004.
- (10) Application No. 11/030,626 filed by Express Mail on January 6, 2005,
- (11) Application No. 11/030,826 filed by Express Mail on January 7, 2005, and
- (12) Application No. 11/041,128 filed by Express Mail on January 21, 2005.

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

⁵ See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

Petitioner has stated, "The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."⁶ Petitioner has failed to prove Attorney Lezdey's was able to sign, review, check, and mail several applications, but was unable to sign and mail the prepared reply to the June 23, 2004 Office action. The Office notes a reply to the Office action, could have been timely filed as late as December 23, 2005 with payment for a three-month extension of time.

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."⁷ Attorney Lezdey has failed to distinguish and discuss the period of delay arising from his failure to know he needed to file a reply rather than his health condition. Petitioner must prove the entire delay in the submission of a grantable petition was unavoidable. The Office notes a petition under 37 CFR 1.137(a) was not filed until March 14, 2005 (Certificate of Mailing date of March 10, 2005).

Petitioner has still not discussed all papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The instant petition fails to discuss the extent to which petitioner handled other work-related matters during the relevant time period.

The Office notes Lezdey filed papers in at least one application during the relevant time period. A final Office action was mailed in Application No. July 8, 2004. An amendment was mailed to the Office on October 5, 2004. An Advisory Action was mailed November 12, 2004. A new reply was filed November 19, 2004. A second Advisory Action was mailed December 29, 2004.

Any request for reconsideration under 37 CFR 1.137(a) must fully discuss all papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. Any request for reconsideration should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period.

The prior decision stated,

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A renewed petition was not filed until December 26, 2006. The renewed petition fails to establish the December 26, 2006 petition was timely or prove the delay in filing the December 26, 2006 petition was unavoidable.

Petitioner has failed to provide any evidence to demonstrate the delay in the filing of the December 26, 2006 petition was unavoidable.

For the reasons previously discussed, the petition under 37 CFR 1.137(a) cannot be granted.

⁶ March 14, 2005 petition.

⁷ March 14, 2005 petition.

The petition under 37 CFR 1.137(b):

The required fee for a petition under 37 CFR 1.137(b) is \$770. Petitioner has only submitted \$520. Therefore, the petition under 37 CFR 1.137(b) must be dismissed.

Petitioner may be under the impression the petition fee of \$250 for the petition under 37 CFR 1.137(a) may be applied towards the fee required for the petition under 37 CFR 1.137(b). However, the \$250 fee may not be applied towards the \$770 fee.

Any request for reconsideration should include an additional \$250.

Conclusion:

Petitioner has failed to prove the entire delay in the filing of a grantable petition was unavoidable. Petitioner has failed to file the required fee for a petition under 37 CFR 1.137(b). Therefore, the application will not be revived.

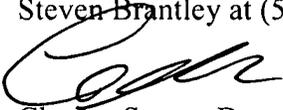
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



JOHN LEZDEY & ASSOCIATES
SUITE 118
2401 WEST BAY DRIVE
LARGO, FL 33770

COPY MAILED

DEC 04 2007

In re Application of :
John Lezdey and Jarrett Lezdey :
Application No. 10/001,311 :
Filed: November 23, 2001 :
Attorney Docket No. 1434-C :
For: Antimicrobial Compositions :

OFFICE OF PETITIONS

Decision on Petition

Corrected Decision:

This is a corrected decision on the petition under 37 CFR 1.137(a), filed October 23, 2007, to revive the above-identified application. The petition is filed in the alternative under 37 CFR 1.137(b).

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

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

Facts:

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 23, 2004, which set a shortened statutory period for reply of three (3) months.

"The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."¹

On August 7, 2004, while in Cape Cod, Attorney John Lezdey, suffered an accident. The accident resulted in spinal fracture and limited leg movement.

Attorney Lezdey states, "In the hospitals, Petitioner was bed ridden and had no files because he expected to return to the Florida office by September 1, 2004."²

Attorney Lezdey was hospitalized until September 10, 2004.

¹ March 14, 2005 petition.

² July 2, 2007 petition.

Since no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the application became abandoned as of midnight on September 23, 2004.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 10/951,051 filed by Express Mail on September 24, 2004,
- (2) Application No. 10/951,190 filed by Express Mail on September 24, 2004, and
- (3) Application No. 29/214,128 filed by Express Mail on September 27, 2004.

Attorney Lezdey underwent physical therapy until October 2004.

Attorney Lezdey returned to Florida on November 24, 2004. Attorney Lezdey states he did not return to the Office until December 3, 2004.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 10/999,037 filed by Express Mail on November 29, 2004,
- (2) Application No. 11/006,279 filed by Express Mail on December 8, 2004,
- (3) Application No. 11/010,028 filed by Express Mail on December 10, 2004,
- (4) Application No. 11/010,219 filed by Express Mail on December 9, 2004,
- (5) Application No. 11/018,620 filed by Express Mail on December 10, 2004, and
- (6) Application No. 11/021,589 filed by Express Mail on December 22, 2004.

A reply to the June 23, 2004 Office action, mailed for the instant application, could have been timely filed as late as December 23, 2004, with payment for a three-month extension of time. In other words, petitioner could have prevented the abandonment of the instant application by filing a reply and payment for a three-month extension of time on or before December 23, 2004.

The current petition states, "In January, 2005 Petitioner filed a Petition to Make Special and to request that the Petition also be considered as Unintentional. This petition was filed after Petitioner returned to Florida." Office records fail to indicate any papers were filed in the instant application during January of 2005.

Lezdey signed the Certificate of Express Mailing and Transmittal sheets for the following applications:

- (1) Application No. 11/030,626 filed by Express Mail on January 6, 2005,
- (2) Application No. 11/030,826 filed by Express Mail on January 7, 2005, and
- (3) Application No. 11/041,128 filed by Express Mail on January 21, 2005.

A Notice of Abandonment was mailed for the instant application on February 14, 2005.

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."³

³ March 14, 2005 petition.

A petition under 37 CFR 1.137(a) was filed March 14, 2005 (Certificate of Mailing date of March 10, 2005).

A decision dismissing the March 14, 2005 petition was mailed June 29, 2005. The decision stated,

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A request to change the address of record was filed September 8, 2005.

A renewed petition was not filed until December 26, 2006. The renewed petition stated a continuation-in-part application had been filed and petitioner wished to revive the application solely for copendency.

The December 26, 2006 renewed petition failed to discuss papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The renewed petition failed to discuss the extent to which petitioner handled other work-related matters during the relevant time period. A petition to make special was filed January 13, 2006. The Office notes the petition to make special is currently moot since petitioner seeks to revive the instant application solely for copendency with the continuation-in-part application.

A decision dismissing the December 26, 2006 was mailed May 1, 2007. The decision repeated the following statement made in the prior decision:

Any request for reconsideration should fully discuss *all* papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. In addition, any such request should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period. For example, was petitioner able to attend any court hearings or file papers with any courts during the time from August 7, 2004, and March 14, 2005?

The December 26, 2006 renewed petition was filed almost 18 months after the mailing date of the June 29, 2005 decision. The renewed petition was filed beyond the maximum extendable period of time set in the June 29, 2005 decision. The renewed petition failed to provide any explanation for the almost 18 months of delay. The May 1, 2007 decision stated,

The instant petition is untimely. The June 26, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted." The instant petition was not filed until 18 months after the mailing of the June 26, 2005 decision. Therefore, the petition is dismissed as untimely.

Petitioner filed a request for reconsideration on July 2, 2007. The petition was dismissed in a decision mailed on September 7, 2007.

Discussion:

The petition under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by 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.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."⁴ The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"⁵

Petitioner has failed to prove the entire delay in filing a grantable petition was unavoidable.

Petitioner appears to contend Lezdey had prepared the following applications prior to his accident and only needed to review and check the applications:

- (1) Application No. 10/951,051 filed by Express Mail on September 24, 2004,
- (2) Application No. 10/951,190 filed by Express Mail on September 24, 2004,
- (3) Application No. 29/214,128 filed by Express Mail on September 27, 2004,
- (4) Application No. 10/999,037 filed by Express Mail on November 29, 2004,
- (5) Application No. 11/006,279 filed by Express Mail on December 8, 2004,
- (6) Application No. 11/010,028 filed by Express Mail on December 10, 2004,
- (7) Application No. 11/010,219 filed by Express Mail on December 9, 2004,
- (8) Application No. 11/018,620 filed by Express Mail on December 10, 2004,
- (9) Application No. 11/021,589 filed by Express Mail on December 22, 2004.
- (10) Application No. 11/030,626 filed by Express Mail on January 6, 2005,
- (11) Application No. 11/030,826 filed by Express Mail on January 7, 2005, and
- (12) Application No. 11/041,128 filed by Express Mail on January 21, 2005.

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

⁵ See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

Petitioner has stated, "The Official Action dated June 23, 2004 was received and a response was prepared to be filed before September 23, 2004."⁶ Petitioner has failed to prove Attorney Lezdey's was able to sign, review, check, and mail several applications, but was unable to sign and mail the prepared reply to the June 23, 2004 Office action. The Office notes a reply to the Office action, could have been timely filed as late as December 23, 2005 with payment for a three-month extension of time.

Attorney Lezdey has stated, "It was not know[n] that the application was abandoned until the Notice of Abandonment was received."⁷ Attorney Lezdey has failed to distinguish and discuss the period of delay arising from his failure to know he needed to file a reply rather than his health condition. Petitioner must prove the entire delay in the submission of a grantable petition was unavoidable. The Office notes a petition under 37 CFR 1.137(a) was not filed until March 14, 2005 (Certificate of Mailing date of March 10, 2005).

Petitioner has still not discussed all papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. The instant petition fails to discuss the extent to which petitioner handled other work-related matters during the relevant time period.

The Office notes Lezdey filed papers in at least one application during the relevant time period. A final Office action was mailed in Application No. July 8, 2004. An amendment was mailed to the Office on October 5, 2004. An Advisory Action was mailed November 12, 2004. A new reply was filed November 19, 2004. A second Advisory Action was mailed December 29, 2004.

Any request for reconsideration under 37 CFR 1.137(a) must fully discuss all papers filed by petitioner with the Office between August 7, 2004, and March 14, 2005. Any request for reconsideration should fully discuss the extent to which petitioner handled other work-related matters during the relevant time period.

The prior decision stated,

The June 29, 2005 decision stated, "Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted."

A renewed petition was not filed until December 26, 2006. The renewed petition fails to establish the December 26, 2006 petition was timely or prove the delay in filing the December 26, 2006 petition was unavoidable.

Petitioner has failed to provide any evidence to demonstrate the delay in the filing of the December 26, 2006 petition was unavoidable.

For the reasons previously discussed, the petition under 37 CFR 1.137(a) cannot be granted.

⁶ March 14, 2005 petition.

⁷ March 14, 2005 petition.

The petition under 37 CFR 1.137(b):

The required fee for a petition under 37 CFR 1.137(b) is \$770. Petitioner submitted \$520. Therefore, per the fee authorization filed with the petition, the sum of \$250 has been charged to petitioner's deposit account.

The prior December 26, 2006 petition indicates petitioner only seeks to revive the application so as to have copendency with a Continuation-In-Part application.

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 Application Number 11/711,272.

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



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



#12

Paper No. 11

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

SEP 26 2002

OFFICE OF PETITIONS

In re Application of :
John Stewart Jakes :
Application No. 10/001,320 :
Filed: October 19, 2001 :
Attorney Docket No. 9052-93 :

DECISION GRANTING PETITION

This is a decision on the petition filed September 18, 2002, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of October 19, 2001, rather than the presently accorded filing date of October 15, 2001.

Petitioner alleges that the application was retrieved and accepted by the Express Mail pick-up service on October 19, 2001. In support, the petition is accompanied by a copy of the "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing a receipt number of EL920741876US (the same Express Mail number found on the original application papers located in the file) showing a "date in" of October 19, 2001.

In view of the above, the petition is granted. A corrected filing receipt is enclosed showing the filing date for the application as October 19, 2001. No petition fee is due.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 19, 2001.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 31 2008

OFFICE OF PETITIONS

**FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON DC 20036**

In re Patent No. 7,246,793 :
Issue Date: July 24, 2007 :
Application No. 10/001,333 : **ON PETITION**
Filed: December 1, 2004 :
Attorney Docket No. 7398/84190 :

This is a decision on the petition filed September 18, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required processing fee set forth in § 1.17 for a petition under 37 CFR 3.81(b) of \$130 has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
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
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

RONALD J. KRANSDORF
WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210

COPY MAILED

OCT 11 2002

OFFICE OF PETITIONS

In re Application of :
Thomas B. Sheridan :
Application No. 10/001,362 :
Filed: October 23, 2001 :
Attorney Docket No. S1450/7000 RJK :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 9, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior filed provisional Application No. 60/242,614, filed October 23, 2000.

The petition is **DISMISSED AS MOOT**.

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

Along with the instant petition under 37 CFR 1.78(a)(6), petitioner has submitted an amendment to the first sentence of the specification following the title to include a reference to prior-filed provisional Application No. 60/242,614, filed October 23, 2000.

The instant pending nonprovisional application was filed on October 23, 2001, within twelve months of the filing date of prior filed provisional application Application No. 60/242,614, which was filed on October 23, 2000, and for which priority is claimed. While a reference to the prior-filed provisional application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the oath or declaration.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5) is not included the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for

priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6).¹ In the instant case, the Office noted the claim for priority of provisional Application No. 60/242,614 in the oath or declaration, as shown by its inclusion on the filing receipt.

In view of the above, the \$1,280 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 Karen Creasy at (703)305-8859. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center AU 2123 for processing the amendment filed May 9, 2002 and for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional Application No. 60/242,614, filed on October 23, 2000.



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

¹ Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.



WELSH & KATZ, LTD
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606-3913

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MAR 05 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of
Mitsugu Mikami, et al.
Application No. 10/001,370
Filed: October 25, 2001
Attorney Docket No. 84017

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This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 15, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

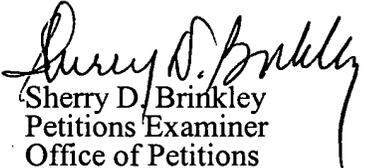
The petition is **GRANTED**.

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 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.

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

The application is being forwarded to Technology Center AU 3653 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

¹The 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. 7

TEXAS INSTRUMENTS INCORPORATED
P. O. Box 655474, M/S 3999
Dallas, TX 75265

MAY 04 2005

In re Application of:	:	
Albert G. Cabintos	:	
Serial No.: 10/001,386	:	<i>SUA SPONTE</i>
Filed: October 25, 2001	:	DECISION WITHDRAWING HOLDING
Attorney Docket No.: TI-30736	:	OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on December 08, 2003. A Notice of Abandonment was mailed on July 23, 2004.

M.P.E.P. 707.13 states in part:

Letters 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 letter again, after stamping it "remailed" with the date thereof and redirecting it if there be any reason to believe that the letter would reach applicant at such new address. If the Office letter was addressed to an attorney, a letter may be written to the inventor or assignee informing him or her of the returned letter. 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).

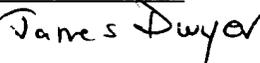
A review of the record shows that a Notice of Allowability and Notice of Allowance and Issue Fee Due, which set a three-month period for payment of the issue fee, was mailed on July 01, 2003, and returned by the United States Postal Service to the United States Patent and Trademark Office. The Office attempted to re-mail the Notices on December 08, 2003; however, it does not appear that any attempt to ascertain the correct address was made, and the Notices were re-mailed to the same previous address. Accordingly, the Notices were not re-mailed pursuant to M.P.E.P. § 707.13.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Notice of Allowance and Issue Fee Due and the Notice of Allowability. The statutory periods for response set therein will be reset to run three months from the date the Notices are remailed. Extensions of time for these statutory periods are not available. See 37 C.F.R. § 1.136(c) effective November 07, 2000.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.


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


James Dwyer



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

MAILED
FROM DIRECTORS OFFICE

OCT 07 2004

TECHNOLOGY CENTER 3500

In re application of

Katharine Russell, et al.

Application No. 10/001,420

Filed: November 1, 2003

For: SYSTEM AND METHOD FOR
CONDUCTING PET, DEATH, DNA AND
OTHER RELATED TRANSACTIONS
OVER A COMPUTER NETWORK

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the renewed request filed on May 14, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this request is sincerely regretted.

The request is **NOT APPROVED** as **MOOT**.

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

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been withdrawn as per the Notice to that effect of August 16, 2004.



Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/dcg: 9/13/04

cc: Howrey Simon Arnold & White, LLP
c/o M.P. Drosos, Director of IP Administration
2941 Fairview Pk
Box 7
Falls Church, VA 22042



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

Mail Date: 04/21/2010

Applicant : Katharine Russell : DECISION ON REQUEST FOR
Patent Number : 7671751 : RECALCULATION of PATENT
Issue Date : 03/02/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/001,420 : OF WYETH
Filed : 11/01/2001 :
:
:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b) (2) (A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b) (4) (A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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



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Paper No. 9

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

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JUN 10 2003

OFFICE OF PETITIONS

In re Application of :
richard F. Lyon et al :
Application No. 10/001,438 :
Filed: October 24, 2001 : DECISION GRANTING PETITION
Attorney Docket No. 514512000100 : UNDER 37 CFR 1.137(f)

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 4, 2003 has been mailed.

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

This application is being forwarded to Technology Center Art Unit 2882 to await a reply to the Nonfinal Rejection mailed March 27, 2003. Failure to timely reply to the March 27, 2003 Office action will again result in the abandonment of the application.



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



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COMMISSIONER FOR PATENTS
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Paper No. 080304

Morrison & Foerster, LLP
755 Page Mill Rd
Palo Alto, Ca 94304-1018

AUG 10 2004

In re Application of:	:	
Lyon et al.	:	
Serial No.: 10/001,438	:	DECISION ON REQUEST TO WITHDRAW
Filed: October 24, 2001	:	FROM RECORD
Attorney Docket No.: 514512000100	:	

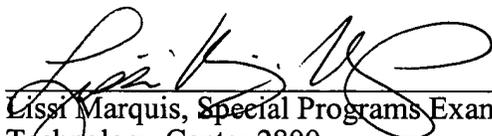
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed June 3, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Sierra Patent Group, Ltd. was filed on July 16, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.



 Lissi Marquis, Special Programs Examiner
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components

cc: Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, NV 89449



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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FEB 29 2008

OFFICE OF PETITIONS

In re Application of :
Mike Sheldon et al :
Application No. 10/001,442 : DECISION ON PETITION
Filed: October 31, 2001 :
Attorney Docket No. MFCP.81059 :

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

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 26, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2179 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A handwritten signature in black ink that reads "Karen Creasy". The signature is written in a cursive, flowing style.

Karen Creasy
Petitions Examiner
Office of Petitions



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Mailed: 10/21/04

spg
Paper Number _____

DECISION ON
PETITION

In re application of
Judith I. Glasscock
Serial No. 10/001,444
Filed: October 31, 2001
For: **RELEASE SHEET FOR USE WITH
MULTICOMPONENT REACTIVE URETHANE
SYSTEMS AND METHOD OF MANUFACTURE :**

This is a response to the **PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION**, filed June 25, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of June 08, 2004, for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn. The requester asserts that the Notice of Allowance mailed January 23, 2004 was not received at the applicant's correspondence address.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicants or applicant's representative did not receive the Notice of Allowance, mailed January 23, 2004. The evidence provided includes a statement by the petitioner that the Notice of Allowance, mailed January 23, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowance was not received. Also provided is a copy of the attorney's application docket records where the Notice of Allowance would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Notice of Allowance and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Briana O'Regan
Sappi Fine Paper North America
Technology Center
PO Box 5000; 89 Cumberland Street
Westbrook, ME 04098-1597



TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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NOV 15 2005

OFFICE OF PETITIONS

In re Application of :
Robert B. Staszewski et al. :
Application No. 10/001,448 :
Filed: October 31, 2001 :
Attorney Docket No.: TI-33170 :

ON PETITION

This is a decision on the petition filed September 2, 2005 under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed February 24, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned May 25, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

This matter is being referred to Technology Center 2817 for appropriate action on the amendment filed September 2, 2005.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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)).



TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OCT 02 2006

In re Application of : **OFFICE OF PETITIONS**
Staszewski, et al. : DECISION ON PETITION
Application No. 10/001,448 :
Filed: October 31, 2001 :
Docket No.: TI-33170 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed December 1, 2005 for which a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. This decision precedes Notice of Abandonment.

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

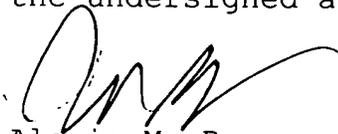
The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

It is noted that this is the second petition to revive pursuant to 37 CFR 1.137(b) to be filed in the above-identified application wherein counsel indicates that while a reply was intended to be submitted, no such reply was in fact timely submitted. Petitioners are advised that future responses to outstanding Office communications must be timely filed as

applicants' failure to submit a timely reply despite intentions, to the contrary may be deemed intentional delay within the meaning of 37 CFR 1.137(b)(3) in any subsequently filed petition under 37 CFR 1.137.

This application will be forwarded to Technology Center 2800 for further processing.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions



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APR 18 2008

OFFICE OF PETITIONS

In re Application of :
Robert B. Staszewski et al :
Application No. 10/001,448 : DECISION GRANTING PETITION
Filed: October 31, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-33170 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed December 15, 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 2817 to consider the reply received August 21, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions



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JAN 30 2006

AGENSYS C/O MORRISON & FOERSTER, LLP
3811 VALLEY CENTRE DRIVE, SUITE 500
SAN DIEGO, CA 92130

In re Application of :
Aya Jakobovits et al :
Serial No.: 10/001,469 : PETITION DECISION
Filed: October 31, 2001 :
Attorney Docket No.: 511582002420 :

This is in response to the petition under 37 CFR 1.181, filed August 12, 2005, requesting entry of an amendment after Final Office action for purposes of Appeal. The delay in acting on this petition is regretted, however it was only brought to the attention of the deciding official recently.

BACKGROUND

A review of the recent file history shows the examiner mailed a Final Office action to applicants on December 16, 2004, setting forth an objection as to the presentation of a Sequence and SEQ ID NO in the claims, a new rejection under 35 U.S.C. 112, second paragraph, for use of an indefinite term, "activity" and a rejection under 35 U.S.C. 112, first paragraph, for lack of enablement. The rejection of "activity" was that the type of activity referred to was not clear – the metes and bounds were not defined.

Applicants replied on February 16, 2005, amending claims 48 and 55 to overcome the objection set forth and further defining "activity" as comprising "101P3A11-mediated cAMP accumulation or the downstream signaling effects thereof." All of the rejections were addressed in the reply and a declaration under 37 CFR 1.132 was also submitted.

The examiner mailed an Advisory Action to applicants on June 17, 2005, one day after the six month statutory response period expired and four months after the reply was filed. The examiner denied entry of the amendment as raising new issues requiring further consideration or search. In a six page letter accompanying the Advisory Action the examiner states only that "the language 'downstream signaling effects thereof' requires new 112, second and first rejections." No further explanation is offered. The balance of the remarks address the affidavit showing and states that it is not entered as the amendment is not entered.

Applicants filed a Notice of Appeal on June 13, 2005.

This petition was filed August 17, 2005, requesting entry of the amendment and affidavit.

DISCUSSION

Applicants state that the amendment proffered by the February 16, 2005, reply responded to the objections and the new 35 U.S.C. 112, first paragraph, rejection set forth and should have been entered. Applicants give specific reasons in the petition and in the reply as to why the amendments should be entered. The examiner stated that the amendment would not be entered as it raised new issues, identifying "downstream signaling means" as the new issue. The examiner, however, did not indicate or explain why this phrase raised new issues under 35 U.S.C. 112, first or second, paragraph. Refusal to enter an amendment after Final Office action requires a clear statement of reasons why the amendment will not be entered since it responds to a new rejection made in the Final Office action, not just a mere statement that new issues are raised. In addition, the affidavit since it responds to a new ground of rejection in the Final Office action should also have been entered and considered and reasons given as to why it does not overcome the rejection to which it is addressed.

Further, the examiner delayed four months before communicating to applicants that the amendment would not be entered thus preventing applicants from filing a further reply which may have addressed such concerns without requiring the filing of a Notice of Appeal or an Appeal Brief. Such delay further mitigates for entry of the amendment.

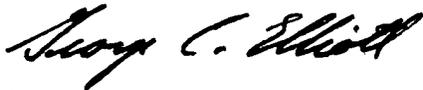
DECISION

The petition is **GRANTED**.

The amendment and affidavit filed February 16, 2005, are entered. Applicants' Appeal Brief should be directed to the claims as amended therein. The time for filing the Appeal Brief as determined by the filing of a Notice of Appeal remains as set therein or as extended under 37 CFR 1.136(a).

There is no fee for this petition and the petition fee paid of \$400.00 will be credited to applicants' Deposit Account No. 03-1952, as directed.

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



George C. Elliott
Director, Technology Center 1600



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JAN 30 2006

AGENSYS C/O MORRISON & FOERSTER, LLP
3811 VALLEY CENTRE DRIVE, SUITE 500
SAN DIEGO, CA 92130

In re Application of :
Aya Jakobovits et al :
Serial No.: 10/001,469 : PETITION DECISION
Filed: October 31, 2001 :
Attorney Docket No.: 511582002420 :

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BACKGROUND

A review of the recent file history shows the examiner mailed a Final Office action to applicants on December 16, 2004, setting forth an objection as to the presentation of a Sequence and SEQ ID NO in the claims, a new rejection under 35 U.S.C. 112, second paragraph, for use of an indefinite term, "activity" and a rejection under 35 U.S.C. 112, first paragraph, for lack of enablement. The rejection of "activity" was that the type of activity referred to was not clear – the metes and bounds were not defined.

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This petition was filed August 17, 2005, requesting entry of the amendment and affidavit.

DISCUSSION

Applicants state that the amendment proffered by the February 16, 2005, reply responded to the objections and the new 35 U.S.C. 112, first paragraph, rejection set forth and should have been entered. Applicants give specific reasons in the petition and in the reply as to why the amendments should be entered. The examiner stated that the amendment would not be entered as it raised new issues, identifying "downstream signaling means" as the new issue. The examiner, however, did not indicate or explain why this phrase raised new issues under 35 U.S.C. 112, first or second, paragraph. Refusal to enter an amendment after Final Office action requires a clear statement of reasons why the amendment will not be entered since it responds to a new rejection made in the Final Office action, not just a mere statement that new issues are raised.

Further, the examiner delayed four months before communicating to applicants that the amendment would not be entered thus preventing applicants from filing a further reply which may have addressed such concerns without requiring the filing of a Notice of Appeal or an Appeal Brief. Such delay further mitigates for entry of the amendment.

DECISION

The petition is **GRANTED**.

The amendment and affidavit filed February 16, 2005, are entered. Applicants' Appeal Brief should be directed to the claims as amended therein. The time for filing the Appeal Brief as determined by the filing of a Notice of Appeal remains as set therein or as extended under 37 CFR 1.136(a).

There is no fee for this petition and the petition fee paid of \$400.00 will be credited to applicants' Deposit Account No. 03-1952, as directed.

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



George C. Elliott
Director, Technology Center 1600



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AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

MAR 20 2007

OFFICE OF PETITIONS

In re Application of :
Jakobovits, et al. : DECISION ON APPLICATION
Application No. 10/001,469 : FOR PATENT TERM ADJUSTMENT
Filed: October 31, 2001 :
Atty. Dkt. No.: 511582002420 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)," filed September 8, 2006.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed June 8, 2006, indicated a patent term adjustment (PTA) to date of zero days. The issue fee payment was timely received September 8, 2006. Applicants argue that the correction adjustment is 38 days.

The correct PTA at the time of the allowance is zero days, as indicated on the Determination of Patent Term Adjustment mailed June 8, 2006.

The calculation submitted by applicants contains inaccuracies. Rather than address each inaccuracy in detail, the actual calculation of adjustment is set forth herein.

An adjustment of 30 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(2) in connection with the mailing of the Notice of Allowance. Applicants do not dispute this adjustment. No further delays can be attributed to the Office.

The adjustment is reduced 61 days in accordance with 37 CFR 1.704(b) in connection with applicants' response to the Notice to File Missing Parts mailed December 20, 2001. Applicants do not dispute this reduction.

The adjustment is reduced 62 days in accordance with 37 CFR 1.704(b) in connection with applicants' response to the Office

action mailed September 23, 2003. Applicants do not dispute this reduction.

The adjustment is further reduced 50 days in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement (IDS) filed April 13, 2004. The reduction began February 24, 2004, the day after the date that a reply to the non-final Office action dated February 23, 2004 was filed, and ended April 13, 2004, the date that the supplemental reply (IDS) was filed. Applicants suggest the reduction in this regard should be 260 days. Applicants' calculation fails to acknowledge that the initial reply submitted February 23, 2004 was in response to the Office communication mailed September 23, 2003.

The adjustment is further reduced 89 days in accordance with 37 CFR 1.704(b) in connection with the Notice of Appeal filed June 13, 2005 in response to the final Office action mailed December 16, 2004. Applicants do not dispute this reduction.

Applicants further argue that the patent is entitled to an additional adjustment of 418 days in accordance with 37 CFR 1.704(b) for the Office's failure to issue the patent within three years from the date upon which the application was filed.

Applicants are advised that knowledge of the actual date the patent issues is required to calculate the amount of additional patent term, if any, for Office failure to issue the patent within three years. See, 37 CFR 1.703(b). Thus, applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date of the application is being **held in abeyance** until after the actual patent date.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 CFR 1.704(b)), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A). Thus, any days of delay for Office issuance of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Red. Reg. 21704 (April 22, 2004).

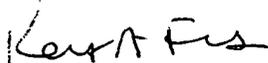
In view thereof, at the time of allowance, the application was entitled to an adjustment of zero days, as indicated in the Determination of Patent Term Adjustment mailed June 8, 2006.

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 required Patent Term Adjustment application fee of \$200.00 has been charged to applicants' deposit account.

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

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



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



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P.O. Box 1450
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MARK S. NOWOTARSKI
30 GLEN TERRACE
STAMFORD, CT 06906

COPY MAILED
DEC 10 2008

In re Application of :
Mark Michael Groz :
Application No. 10/001,475 : **ON PETITION**
Filed: November 1, 2001 :
Attorney Docket No. MMG-001V :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 24, 2008, to revive the above-identified application.

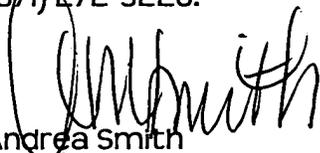
The application became abandoned for failure to file a response to the final Office action mailed April 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$810; and (3) a proper statement of unintentional delay. Therefore, 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. 12/244,022.

The Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address filed on October 24, 2008 has been accepted and made of record. A Notice of Acceptance accompanies this decision.

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


Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/001,475	11/01/2001	Mark Michael Groz	MMG-001V

CONFIRMATION NO. 1906

POA ACCEPTANCE LETTER

57572
MARK S. NOWOTARSKI
30 GLEN TERRACE
STAMFORD, CT 06906



Date Mailed: 12/04/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



AGILENT TECHNOLOGIES INC
LEGAL DEPARTMENT DL429
INTELLECTUAL PROPERTY ADMINISTRATION
PO BOX 7599
LOVELAND CO 80537-0599

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APR 19 2002

OFFICE OF PETITIONS

In re Application of
Kakarala, et al. :
Application No. 10/001,508 : DECISION ON PETITION
Filed: October 23, 2001 :
Title: SIGNALING :
ADAPTIVE-QUANTIZATION MATRICES IN :
JPEG USING END-OF-BLOCK CODES :

This is a decision on the petition filed January 29, 2002 (Certificate of Mailing dated January 25, 2002), to accord the above-identified application a filing date of October 23, 2001, with page 33 of the specification as a part of the original disclosure.

Application papers in the above-identified application were filed on October 23, 2001. However, on December 31, 2001, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Items in a Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date; however, page 33 of the specification appeared to have been omitted.

In response, on January 29, 2002, applicant filed the present petition to accord a filing date of October 23, 2001, with page 33 as part of the original disclosure. Applicant asserted that page 33 was with the application as originally filed on October 23, 2001. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Specification, Claims and Abstract (37 pages)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of October 23, 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**.

The Notice of Omitted Items is hereby **VACATED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 10-0447.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy

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

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of October 23, 2001, using the application papers received in the Office on that date and page 33 of the specification resupplied on petition filed January 29, 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

cc: Steven R. Greenfield
Jenkins & Gilchrist PC
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202-2799



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Sturm & Fix LLP
206 Sixth Avenue
Suite 1213
Des Moines, IA 50309-4076

In re Application of	:	DECISION ON PETITION
Mark R. Stelter et al	:	TO WITHDRAW
Serial No. : 10/001,509	:	HOLDING OF
Filed : October 31, 2001	:	ABANDONMENT
For : Brush Chipper and Methods of Operating Same	:	

This is a decision on petitioner's request filed August 20, 2004, to review the holding of abandonment mailed August 9, 2004, for failure to respond to the Office action mailed November 26, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped postcard dated December 8, 2003, as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed August 9, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received December 8, 2003.

Summary: Holding of Abandonment Withdrawn.

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

ak/05/24/05



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 19 2002

Mailed:

Paper No: 3

In re application of
Douglas S. Nordgren et al.
Serial No. 10/001,532
Filed: October 25, 2001

DECISION ON
PETITION

For: EXTRUSION DIE WITH HORIZONTAL AND
VERTICAL EXTRUDATE OPENING
ADJUSTMENT

This is a decision on the PETITION TO EXPUNGE UNDER MPEP 724.05 AND RULE 59(b):
PETITION TO EXPUNGE MATERIALS SUBMITTED UNDER MPEP 724, 724.02, AND
724.05, filed on February 12, 2002 which has been accepted as a timely petition, and is before the
Group Director of Technology Center 1700 for consideration.

DECISION

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, pursuant to MPEP 724.06 (August 2001)

Petitioner requests that a document entitled CONFIDENTIAL .., filed February 25, 2000 be
expunged from the record. Petition states either: (A) that the information contains trade secret
material, proprietary material and/or material which is subject to a protective order which has not
been public; or (B) that the information submitted was unintentionally submitted and the failure to
obtain its return would cause irreparable harm to the party who submitted the information or to the
party in interest on whose behalf the information was submitted, and the information has not
otherwise been made public. The petition fee set forth in 37 C.F.R. 1.17(I) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed.
Accordingly, it is not appropriate to make a final determination of whether or not the material
requested to be expunged is "material," with materiality being defined as any information which the
examiner considers as being important to a determination of patentability of the claims. Thus, the
decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". As soon as the applicant is advised by the examiner that the material submitted is not relevant to the patentability determination, the petition will be reconsidered.

The petition is DISMISSED.

A handwritten signature in cursive script that reads "Richard V. Fisher". The signature is written in black ink and is positioned above a horizontal line.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

JENKENS & GILCHRIST, P.C.
225 West Washington, Suite 2600
Chicago, IL 60606



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,532	10/25/2001	Douglas S. Nordgren	47097-01005	2558
28763	7590	01/09/2008	EXAMINER	
BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44th Floor NEW YORK, NY 10112-4498			DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER
			1722	
			NOTIFICATION DATE	DELIVERY MODE
			01/09/2008	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):

DLNYDocket@bakerbotts.com



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wk

Mailed: 1-9-08

In re application of

Douglas S. Nordgren et al.

Serial No. 10/001,532

Filed: October 25, 2001

For: Extrusion Die With Horizontal And Vertical
Extrudate Opening Adjustment

:
: DECISION ON
: PETITION
:
:

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed June 30, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the document dated February 11, 2002 be expunged

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase “and returned ” from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase “and return ” from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/001,532

The image will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498



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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas Westbrook, et al.	:	
Application No. 10/001,556	:	DECISION ON PETITION
Filed: October 31, 2001	:	TO WITHDRAW
Attorney Docket No. WWWN116621	:	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 22, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

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).

Further the request cannot be approved because petitioner has not certified that they have delivered to the client or duly authorized agent of representative of the client all papers and property (including funds) to which the client is entitled. Practitioners are not permitted to withdraw from representation as practitioners of record unless all the certifications are made. It is also noted that submitting false certification may violate a practitioner's duty under 37 CFR 10.23(b)(4) and (b)(5).

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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: W3 HOLDINGS LTD
PO BOX 5210
YELM, WA 98597

SPE E. Lee

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/001,625

DATE

: 6/13/05

Paper No.: _____

TO SPE OF

: ART UNIT 2811

SUBJECT

: Request for Certificate of Correction on Patent No.: 6815328

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch - South Tower - 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

col. 7, line 63

"forming a second insulating region on the first conductive region and the first insulating region" should read as

-- forming a second insulating region on the first conductive region and the first insulating region --

Steven Lobe
Acting SPE

2811
Art Unit



MAILED

JUN 02 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

SQUIRE, SANDERS & DEMPSEY L.L.P.
600 HANSEN WAY
PALO ALTO CA 94304-1043

In re application of
Li-Wen Chen et al.

Application No. 10/001,644

Filed: November 29, 2001

For: SYSTEM AND METHOD FOR PROVIDING
A DATA WAREHOUSE IN ACCORDANCE WITH
A VIRTUAL SCHEMA

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on February 2, 2004 under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks reason for the withdrawal under condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided. No reason has been provided.

It is further noted that a second request for withdrawal was filed by Charles J. Kulas on February 9, 2004 on behalf of all attorneys of record. However, this petition would not have been approved because Mr. Kulas does not have power of attorney and even if he did, no reason was provided for the withdrawal.



Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/mjz: 5/18/04



FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/001,644 :
Filed: November 29, 2001 :
Attorney Docket Number: 52719.00033 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of July 12, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on October 13, 2004. A Notice of Abandonment was mailed on July 13, 2005.

This Petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

WILLIAM M. HANLON, JR.
YOUNG BASILE HANLON MACFARLANE
WOOD & HELMHOLDT, P.C.
3001 WEST BIG BEAVER RD., SUITE 624
TROY, MI 48084-3107

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SEP 30 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
Gehrke Martin :
Application No. 10/001,668 :
Filed: October 23, 2001 :
Attorney Docket No. DFS-138-A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See *DH Technology v. Synergystex International, Inc.*, 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2800.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6663654	2003-12-16	10001678	2001-10-23	0701082-014

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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 david torche/	Date (YYYY-MM-DD)	2008-06-09
Name	Mark David Torche	Registration Number	45823

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. 6663654 :
Issue Date: December 16,2003 :
Application No. 10001678 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 23,2001 :
Attorney Docket No. 5600-001 :

This is a decision on the electronic petition, filed June 9,2008 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 9,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition
and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner
should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at
1-866-217-9197.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed

March 30, 2008

Patent No. : 7,212,987
Inventor : Swanke et al
Patent Issued : May 1, 2007
Title : A SYSTEM AND METHOD FOR PLANNING A DESIGN PROJECT, COORDINATING
PROJECT RESOURCES AND TOOLS AND MONITORING PROJECT PROGRESS

Re: Request for Certificate of Correction

The Certificates of Correction Branch received your request to enter formal Drawings.

The file does not contain a Notice of Draftsperson's Patent Drawing Review requesting corrected or formal drawings. In addition, formal drawings must be entered prior to paying the issue fee.

In view of the foregoing, applicants' request is hereby denied.

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs
Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch

(703) 308-9390 or (703) 308-

9380 ext. 123

Frederick W. Gibb, III
Gibb & Rahman, LLC
2568-A Riva Road, Suite 304
Annapolis, MD 21401

CBN/arg

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)
6,745,397	2004-06-08	10/001,698	2001-10-31	5740P002

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/George W Hoover/	Date (YYYY-MM-DD)	2009-01-21
Name	George W Hoover	Registration Number	32992

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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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.
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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. 6745397 :
Issue Date: June 8,2004 :
Application No. 10001698 :DECISION GRANTING PETITION
Filed: October 31,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 5740P002 :

This is a decision on the electronic petition, filed January 21,2009 ,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 21,2009 . 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

Paper No.

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK NY 10022-7650

COPY MAILED

MAR 08 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shlomo Ben-Haim, et al. :
Application No. 10/001,710 :
Filed: October 31, 2001 :
Attorney Docket No. 20066-86 :

This is a decision on the petition under 37 CFR 1.313, filed March 7, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

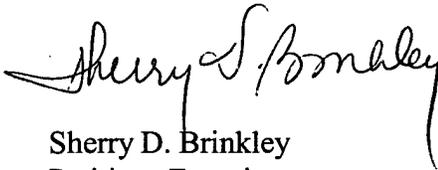
- (1) Unpatentability of one or more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
- (2) Consideration of a submission pursuant to 37 CFR 1.114; or
- (3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865, 14873 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47, 54 (Apr. 11, 2000).

Upon payment of the issue fee, an application will not be withdrawn from issue on petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

The application is being returned to the Office of Patent Publication.

A handwritten signature in cursive script, appearing to read "Sherry D. Brinkley". The signature is written in black ink and is positioned to the left of the printed name.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

REED SMITH, LLP
ATTN: PATENT RECORDS DEPARTMENT
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED

MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Shlomo Ben-Haim, et al. :
Application No. 10/001,710 :
Filed: October 31, 2001 :
Attorney Docket No. 20066-86 :

ON PETITION

This is a decision on the renewed 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 June 24, 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 3762 for further processing of the request for continued examination under 37 CFR 1.114 filed March 15, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹The 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 : May 10, 2008

Paper No.: X

TO SPE OF : ART UNIT 2141

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/001721 Patent No.: 7305449 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 above SPE response to 703-308-9390~~

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: No comments


SPE 2144
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant : Christophe De Vleeschouwer : DECISION ON REQUEST FOR
Patent Number : 7616690 : RECALCULATION of PATENT
Issue Date : 11/10/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/001,736 : OF WYETH AND NOTICE OF INTENT TO
Filed : 10/31/2001 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **833** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

COPY MAILED

JUN 22 2006

OFFICE OF PETITIONS

In re Application of

Beck, et al.

Application No. 10/001,756

Filed: October 24, 2001

Attorney Docket No. 10003472-1

:
:
: **DECISION ON PETITION**
:

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 24, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 10, 2005, after it was believed that no response was received to the non-final Office action mailed August 9, 2005. The notice allowed a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on March 27, 2006, indicating that a reply to the non-final Office action was not received.

A review of the record did reveal an amendment filed November 8, 2005, that was responsive to the non-final Office. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 1700, GAU 1752, for further processing.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



Paper No. 7

NEAL M COHEN
2424 SE BRISTOL STREET
SUITE 300
NEWPORT BEACH, CA 92660

COPY MAILED

APR 17 2003

OFFICE OF PETITIONS

In re Application of :
Thomas C. Amon ET AL. :
Application No. 10/001,761 :
Filed: October 31, 2001 :
Attorney Docket No. EVU-02-PUSA :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 or alternatively 37 CFR 1.183 filed September 9, 2002, to reinstate the application and the petition filed 37 CFR 1.137(b) and alternatively 37 CFR 1.137(b) filed February 10, 2003, to revive the above-identified application.

The petition under 37 CFR 1.182 is **DISMISSED**.

The petition under 37 CFR 1.183 is **DISMISSED**.

The petition under 37 CFR 1.137 (a) is **DISMISSED**.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the requirements set forth in the Notice To File Corrected Application Papers mailed December 20, 2001, which set a period for reply of two (2) months from its mailing date. The application became abandoned on February 21, 2002.

THE PETITION UNDER 37 CFR 1.182

It is not appropriate for petitioner to seek relief under 37 CFR 1.182 in that 37 CFR 1.182 is directed toward situations not provided for by the regulations. Situations which require either the withdrawal of the holding of abandonment, waiving of a rule, or revival of an abandoned application are provided for in 37 CFR 1.181 (a), 1.183, 1.137 (a) and 1.137 (b) respectively. Accordingly, the petition under 37 CFR 1.182 is immaterial to the issue.

THE PETITION UNDER 37 CFR 1.183

Petitioner has requested that the application be reinstated 37 CFR 1.183. However, the instant petition under 37 CFR 1.183 is being considered to be a request for the Commissioner to waive the time period as set for in the Notice to File Corrected Application Papers mailed December 21, 2001. 37 CFR 1.183 states

In an extraordinary situation, when justice re-quires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

The circumstances of this case are not deemed to be so extraordinary that "justice requires" wavier of the time period, in that the Petitioner states that the Notice to File Corrected Application Paper ("Notice") was not received because it was mailed to the previous attorney of record, Kit M. Stetina, at the law firm Stetina, Brunda, Garred, & Bruckner ("Stetina"). During the set time period of response, counsel at Stetina had power of attorney in the instant application as petitioner did not file a revocation and power of attorney in the instant application until July 22, 2002. The power of attorney filed in the parent application on March 12, 2002, would not have an effect on the child application, because a separate power of attorney must be filed in each application, see 37 CFR 1.4 (b), where it states "Since each file must be complete in itself, a separate copy of every paper to be filed in a patent or trademark application, patent file, trademark registration file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical." Although petitioner sought the status of the application during this time period, no information regarding the application would have been provided to them beyond that which is available to the public (see 37 CFR 1.14). Since the attorney of record Kit M. Stetina received the "Notice," there is no doubt that applicant, via counsel, had received adequate notice of the defect in the application, and likewise had adequate time within which to reply, or seek extension of that period under the provisions of 37 CFR 1.136(a) as set forth in the Notice. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. See U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Under these, circumstances petitioner has not shown that it is appropriate for the Commissioner to waive the two (2) period of response and, as such, the petition under 37 CFR 1.183 is dismissed.

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.137(a):

An application is "unavoidably" abandoned only where petitioner takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Manifestly, as there is no showing that any action whatsoever was taken upon former counsel's receipt of the Office communication during the period for reply, the abandonment and resulting delay is not unavoidable. There is no showing that, upon receipt, the Office communication was docketed for timely reply in a reliable docketing system as would be employed by a prudent and careful person with respect to that person's most important business. See In re Katrapat, 6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). Furthermore, there is no adequate showing that former counsel was "unavoidably" prevented from discharging his obligation to petitioner or that former counsel was "unavoidably" prevented from advising petitioner that counsel was unable to or otherwise would not reply and that petitioner should make other arrangements for continuing prosecution. Petitioner is reminded that the United States Patent and Trademark Office must

rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992). Specifically, an applicant's delay caused by the mistakes or omissions of a voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 and 37 CFR 1.137(a). Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981), Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). While petitioner complains that current counsel was unable to obtain information regarding this application from the USPTO, such was properly refused absent the presentation of a proper power of attorney or of inspection, and it has not been shown that the presentation of an appropriate document was "unavoidably" delayed.

WITH RESPECT TO THE PEITION UNDER 37 CFR 1.137(b):

The petition is granted, and this application is restored to pending status.

Deposit Account 50-1105 has been charged \$130 for the petition for extraordinary relief, \$650 for the petition under 37 CFR 1.137(b), and \$55 for the petition under 37 CFR 1.137(a).

This application is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-1820.



Brian Hearn
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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P. O. BOX 5257
NEW YORK NY 10150-5257

SEP 03 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 9

In re application of: : **DECISION ON PETITION**
Anand Subramanian et al. : **TO MAKE SPECIAL**
Application No. 10/001772 : **(ACCELERATED**
Filed: October 31, 2001 : **EXAMINATION)**
For: INTERNET CONTEXTUAL
COMMUNICATION SYSTEM

This is in response to the petition filed on June 11, 2003 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 delay in acting on this petition is regretted.

The petition is **DENIED**.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed June 11, 2003 fails to adequately meet requirement (B) above. Applicant's refusal to make an election without traverse in response to the examiner's restriction made by phone on August 13th and 14th of 2003 render the petition to be denied on the ground that the claims are not directed to a single invention.

Also, the petition filed June 11, 2003 fails to adequately meet requirement (E) above since the detailed discussion does not include discussion of how the claimed subject matter is patentable over the references. The preliminary examination report of the international search report does not present comprehensive and detailed discussion of

the how the features of the claims of the present invention patentably define over each of the found references as is required in

For the above stated reasons, the petition is denied .

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

SUMMARY: Petition to Make Special: **DENIED.**

Applicant should promptly submit a renewed petition to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

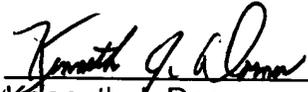


Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/ekn: 9-03-03

For the above stated reasons, the petition is denied.

SUMMARY: Petition to Make Special: **DENIED.**



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/cps: 12/15/03



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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P. O. BOX 5257
NEW YORK, NY 10150-5257

APR 14 2004
DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of: : **DECISION ON PETITION**
Anand Subramanian et al. : **TO MAKE SPECIAL**
Application No. 10/001,772 : **(ACCELERATED**
Filed: October 31, 2001 : **EXAMINATION)**
For: INTERNET CONTEXTUAL
COMMUNICATION SYSTEM

This is in response to the second renewed petition filed on January 8, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt **bona fide** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/mjz: 3/22/04



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STEPHEN H. CAGLE
HOWREY, SIMON, ARNOLD & WHITE, LLP
750 BERING DRIVE
HOUSTON, TX 77057

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APR 15 2004

OFFICE OF PETITIONS

In re Application of :
Lalit S. Shah, et al. :
Application No. 10/001,820 : **ON PETITION**
Filed: October 23,2001 :
Attorney Docket No. 12942.0048 PUS00 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 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 June 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 15, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the extension of time submitted with the petition on February 11, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary. No extension of time fee has been charged to petitioner's deposit account.

The application file is being forwarded to Technology Center 1600, Art Unit 1621 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.



Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: A. Stephen Zavell
P.O. Box 6006
San Ramon, CA 94583-0806



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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STEPHEN H. CAGLE
HOWREY, SIMON, ARNOLD & WHITE, LLP
750 BERING DRIVE
HOUSTON TX 77057

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Lalit S. SHAH et al.	:	
Application No. 10/001,820	:	DECISION ON PETITION
Filed: October 23, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 12942.0048 PUS00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Office action of October 20, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 21, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1) the required reply.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance (note attachment), the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

A handwritten signature in cursive script that reads "Frances Hicks".

Frances Hicks
Lead Petitions Examiner
Office of Petitions

cc: PAMELA J. CURBELO
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

Attachment: Advisory Action (PTOL-303)



DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

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OFFICE OF PETITIONS

In re Application of :
Erik Ekelhoff :
Application No. 10/001,838 : **DECISION ON PETITION**
Filed: November 27, 2001 :
Attorney Docket No. 010481-US :

This is a decision on the petition filed September 18, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the nonfinal Office action of February 28, 2003, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before May 28, 2003. In the absence of a timely filed reply, the Office mailed a Notice of Abandonment on October 2, 2003.

Petitioner asserted that he submitted a timely reply to the nonfinal Office action accompanied by a certificate of mailing dated May 26, 2003. With the present petition, petitioner submitted a copy of the previously mailed reply in the form of an amendment, bearing a certificate of mailing dated May 26, 2003. The certificate of mailing of May 26, 2003, would have rendered the amendment timely filed if received in the USPTO; however, the application file does not include the original reply or the certificate of mailing.

Pursuant to 37 CFR 1.8(b):

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The present petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to file a timely reply to the nonfinal Office action of February 28, 2003, is withdrawn and the application is restored to pending status. The Office will accept the copy of the reply submitted with the petition in place of the reply mailed on May 26, 2003.

This application is being referred to Technology Center AU 1746 for appropriate action on the amendment submitted on September 18, 2006 (certificate of mailing dated May 26, 2003).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. All other questions regarding the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



**DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770**

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JUL 16 2008

OFFICE OF PETITIONS

In re Patent No. 7,246,625 :
Issued: July 24, 2007 :
Application No. 10/001,838 : **ON PETITION**
Filed: November 27, 2001 :
Attorney Docket No. 20794/0205570-US0 :

This is a decision on the petition, filed November 20, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name and address to the issued patent. The petition also requests to change the inventor's last name.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but *prior to issuance of a patent*. Patent and Trademark Office assignment records disclose that a corrective assignment, changing the assignee's name from "Carl Miele & Cie. GMBH & Co." to "Miele & Cie, KG" was recorded on September 12, 2007, after the date of issuance of this patent.

Accordingly, since the corrective assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. See MPEP Section 307.

In regard to the request to change the inventor's last name, MPEP 605.04(c) states:

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee (\$400.00) and a statement signed by the inventor setting forth *both names* and the procedure whereby the change of name was effected, or a copy of the court order.

¹ See Official Gazette of June 22, 2004

Since petitioner has already submitted a request for certificate of correction along with the appropriate fee, a petition under 37 CFR 1.182 is all that is needed to change the inventor's last name.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:
 U.S. Patent and Trademark Office
 Customer Service Window Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions



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840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH CA 92660

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Weonwoo Kim et al :
Application No. 10/001,846 : DECISION GRANTING PETITION
Filed: November 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 155634-0115 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 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 nonfinal Office action of August 25, 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 2651.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

Decker, Jones, McMackin, McClane, Hall & Bates, P.C
Burnett Plaza
801 Cherry Street, Suite 2000
Fort Worth, TX 76102-6836

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~~JUN 12~~ 2003

**OFFICE OF DIRECTOR
GROUP**

In re Application of)
FLOYD)
Application No. 10/001,867)
Filed: November 19, 2001)
For: LENS ARRANGEMENT WITH FLUID)
CELL AND PRESCRIPTIVE ELEMENT)

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition under 37 C.F.R. § 1.102, filed on November 19, 2001, 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, Item IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item 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 applicant's statement that the applicant 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.

If the examiner can make this application special without prejudice to any possible interfering applications, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a *bona fide* effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds an interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



Paper No. 6

LSI Logic Corporation
1551 McCarthy Blvd.
M/S: D-106 Patent Department
Milpitas CA 95035

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MAY 17 2002

OFFICE OF PETITIONS

In re Application of	:
Delaney & DeKoning	:
Application No. 10/001,889	: DECISION ACCORDING STATUS
Filed: November 19, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 01-019	:
For: METHOD FOR THE ACCELERATION AND	:
SIMPLIFICATION OF FILE SYSTEMS	:
LOGGING TECHNIQUES USING STORAGE	:
DEVICE SNAPSHOTS	:

This is in response to the petition under 37 CFR 1.47(a), filed February 12, 2002 (certificate of mailing date January 18, 2002)..

The petition is granted.

Petitioner has shown that the non-signing inventor, Rodney A. DeKoning, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition contains an express written refusal by Mr. DeKoning to sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
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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ALEXANDRIA, VA 22313-1450
[WWW.USPTO.GOV](http://www.uspto.gov)

Paper No. 05182004

Rohan G. Sabapathypillai
Myers, Bigel, Sibley and Saojovec, P.A.
P.O. Box 37428
Raleigh, North Carolina 27627

Appl No.: 10/001920 :
Inv.: Ammann et al. :
Filed: October 31, 2001 :
For: Device Comprising an Electrical Circuit Carried By a :
Carrier Element and Method For the Manufacture of Such :
a Device :

**DECISION ON PETITION
UNDER 37 CFR 1.26**

This is a decision on the applicant's "Petition to Refund of the Notice of Appeal Fee and Withdrawal of the Notice of Appeal" filed under 37 CFR 1.26 filed April 16, 2004. The applicant requests that the Notice of Appeal fee of \$330.00 be refunded as there was a problem in the responding to a timely filed after final amendment. The facts as supported by the USPTO records and highlighted by the applicant's petition are:

A Final Rejection of the claims was mailed out on September 26, 2003;

Applicants filed and amendment after final on November 12, 2003 which is within two months due date for response;

Applicants, to protect their invention and prevent potential abandonment of their invention, filed a Notice of Appeal with associated fee (\$330.00) on February 25, 2004;

On April 7, 2004, an office action reopening prosecution and instituting a new ground of rejection was mailed.

After a careful review of the above facts, the petition is hereby **granted**.

The pending file has been returned to TC 2800 Central files to await a response to the Office action of April 7, 2004.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

A handwritten signature in black ink, appearing to read "Matt S. Smith". The signature is written in a cursive, flowing style.

MATTHEW SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

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)
6723368	2004-04-20	10/001,928	2001-10-31	COFFEE PRESOAK

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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 G. Henry/	Date (YYYY-MM-DD)	2008-08-04
Name	David G. Henry	Registration Number	32735

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6723368 :
Issue Date: April 20, 2004 :
Application No. 10001928 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 31, 2001 :
Attorney Docket No. COFFEE PRESOAK :

This is a decision on the electronic petition, filed August 4, 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 4, 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 inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226-0618

COPY MAILED

AUG 16 2004

OFFICE OF PETITIONS

In re Application of :
Ralph et al. :
Application No. 10/001,937 : DECISION ON PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1759.17239-FOR :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

In the amendment supplied by the petitioner, the first application, Application No. 10/617,976, is listed as having a filing date of July 11, 2003. The above-identified application has a filing date of October 25, 2001. Therefore, the instant application cannot claim priority to an application that has a later filing date.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment¹ correcting the filing dates and/or the relationships of the prior-filed applications to the instant application is required.

¹ Note 37 CFR 1.121

Further correspondence with respect to this matter should be addressed as follows:

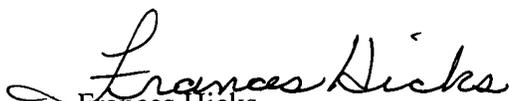
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 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) 872-9306²
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.
Any questions after September 28, 2004 should be directed to (571) 272-3206.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

² Effective approximately September 28, 2004, the facsimile number will be 571-273-0025, which is when the Office of Petitions expects to move to the new quarters in Alexandria, Virginia. However, this number is not to be used for submitting formal papers, but merely is to be used for receiving courtesy and informal papers and petitions to withdraw from issue only. Courtesy and informal papers will not be made a part of the file record.



RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226-0618

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SEP 21 2004

OFFICE OF PETITIONS

In re Application of :
Ralph et al. :
Application No. 10/001,937 : DECISION GRANTING PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1759.17239-FOR :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 30, 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 25, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

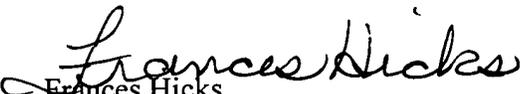
The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482 or at (571) 272-3206 after September 28, 2004.

This application is being forwarded to Technology Center Art Unit 3732 for appropriate action on the amendment filed August 30, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.


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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KENNETH J. SHEEHAN, BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036-5304

COPY MAILED

AUG 21 2008

OFFICE OF PETITIONS

In re Application of :
Holger Nolte, et. al. :
Application No. 10/001,940 : **DECISION ON PETITION**
Filed: November 29, 2001 :
Attorney Docket No. CRR0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed September 20, 2007. Accordingly, the date of abandonment of this application is December 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1440 and the publication fee of \$300, (2) the petition fee of \$1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

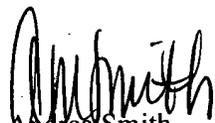
There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Raphael A. Valencia appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless,

in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.



Andrea Smith
Petitions Examiner
Office of Petitions



IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
P.O. BOX 218 - 39-238
YORKTOWN HEIGHTS NY 10598

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of :
Sharon Michelle Darwent et al. :
Application No. 10/001,948 :
Filed: October 24, 2001 :
Attorney Docket No.: YOR920000749US2 :

ON PETITION

This is a decision on the petition filed March 27, 2006 under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 6, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 7, 2005. Accordingly, a Notice of Abandonment was mailed on February 6, 2006.

This matter is being referred to Technology Center 2128 for appropriate action on the amendment filed March 27, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).



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OFFICE OF PETITIONS

ROBERT D. VARITZ, P.C.
4915 SE 33RD PLACE
PORTLAND, OR 97202

In re Patent No.: 6,947,789 :
Issued: September 20, 2005 :
Application No. 10/001,949 : NOTICE
Filed: November 13, 2001 :
Attorney Docket No. PAN311 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is noted that the address on this communication differs from the address of record. Patentee is reminded that if it desired to receive correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, the fee address and/or customer number forms should be submitted to the Maintenance Fee Division. A courtesy of this notice is being mailed to the address on the communication.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WELCH ALLYN, INC.
LEGAL DEPARTMENT
4619 JORDAN ROAD
P.O. BOX 187
SKANEATELES FALLS, NY 13153-0187



KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

Paper No. 6

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MAY 20 2002

OFFICE OF PETITIONS

In re Application of Stenzel
Application No. 10/001,960
Filed: December 5, 2001
Attorney Docket No. 12013/58901

:
:
: DECISION GRANTING
: PETITION
:

This is a decision on the petition under 37 CFR 1.53(e), filed January 31, 2002 and supplemented on May 3, 2002, requesting withdrawal of the Notice of Incomplete Nonprovisional Application (Notice), mailed January 9, 2002 .

The application was deposited on December 5, 2001. On January 9, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that the application contained no drawing figures. Therefore, the application had not been accorded a filing date. Petitioner was given a non-extendable 2 month period from the mail date of the Notice to (1) supply drawings and a newly executed oath/declaration covering the drawings in order to obtain a filing date as of the date of the newly deposited drawings or (2) submit evidence that the drawings were in fact deposited on December 5, 2001 in order to obtain a December 5, 2001 filing date.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the application be accorded a filing date of December 5, 2001 on the basis that 4 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on December 5, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing December 5, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 4 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 4 sheets of drawing figures were filed on December 5, 2001. MPEP 503. Accordingly, the request is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 5, 2001, using the copies of drawing figures 1,2,3,4, 5,6,7,8,9,10,11 & 12 submitted with the instant petition. Office records will be corrected to show that 4 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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

JAY H. MAIOLI
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

COPY MAILED

APR 28 2003

In re Application of	:	OFFICE OF PETITIONS
Daniel B. Kainen	:	
Application No. 10/002,018	:	ON PETITION
Filed: November 15, 2001	:	
Attorney Docket No. 1463/63325	:	

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 **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Corrected Application Papers mailed December 26, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. A reply was received on May 6, 2002 but the reply was informal since it did not comply with the regulations in compliance with 37 CFR 1.84(g). Accordingly, the above-identified application became abandoned at midnight on April 26, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

In view of the submission of the petition fee in the large entity amount of \$1300, status as a small entity has been removed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 0205

DATE : 2/14/05

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction on Patent No.: 6628037

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:

Changes to claim 17 change scope of claims since
" a processor for driving... " was not in original
claim 17 & adds new matter there to.

DM
2/14/05

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2834
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 3:

Column 19, line 5, please change " $d = \sqrt{0.137\rho} \cdot f^{-0.375} B^{-0.175}$ " (3)" to

$$..d = \sqrt{0.137\rho} \cdot f^{-0.375} B_m^{-0.175} \quad (3)--$$

Claim 4:

Column 19, line 16, please change

$$"d = \sqrt{1.339\rho} \cdot f^{-0.375} B^{-0.175} \quad (4)" \text{ to}$$

$$..d = \sqrt{1.339\rho} \cdot f^{-0.375} B_m^{-0.175} \quad (4)--$$

Claim 5:

Column 19, line 25, please change "(in)" to --(m)-- and

$$\text{line 30, please change } "d = \sqrt{3.049\rho} \cdot f^{-0.375} B^{-0.175} \quad (5)" \text{ to}$$

$$..d = \sqrt{3.049\rho} \cdot f^{-0.375} B_m^{-0.175} \quad (5)--$$

MAILING ADDRESS OF SENDER:

Epson Research and Development, Inc.
Intellectual Property Department
150 River Oaks Parkway, Suite 225
San Jose, CA 95134
Customer No. 20178

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 9:

Column 20, line 16, please change " $d = \sqrt{0.654\rho} \cdot f^{-0.375} B^{-0.175}$ (2)" to
-- $d = \sqrt{0.654\rho} \cdot f^{-0.375} B_m^{-0.175}$ (2)--

Claim 10:

Column 20, line 34, please change "(in)" to --(m)-- and line 40, please change
" $d = \sqrt{0.654\rho} \cdot f^{-0.375} B^{-0.175}$ (2)" to
-- $d = \sqrt{0.654\rho} \cdot f^{-0.375} B_m^{-0.175}$ (2)--

Claim 11:

Column 20, line 61, please change " $d = \sqrt{0.137\rho} \cdot f^{-0.375} B^{-0.175}$
(3)" to -- $d = \sqrt{0.137\rho} \cdot f^{-0.375} B_m^{-0.175}$ (3)--

APR 07 2004

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 12:

Column 21, line 20, please change " $d = \sqrt{0.137\rho} \cdot f^{-0.375} B^{-0.175}$ " (3)" to
-- $d = \sqrt{0.137\rho} \cdot f^{-0.375} B_m^{-0.175}$ (3)--

Claim 13:

Column 21, line 45, please change " $d = \sqrt{1.339\rho} \cdot f^{-0.375} B^{-0.175}$ " (4)" to
-- $d = \sqrt{1.339\rho} \cdot f^{-0.375} B_m^{-0.175}$ (4)--

Claim 16:

Column 22, line 7, please change "(in)" to --(m)--

Claim 17:

Column 22, after line 35, please insert

--where k_h represents hysteresis loss coefficient, k_e represents eddy-current loss coefficient, ρ ($\Omega \cdot m$) represents resistivity, f (Hz) represents frequency and B_m (T) represents maximum amplitude magnetic flux density of the soft magnetic material; and

a processor for driving a time display by the electric energy generated by the power generator...

BM

APR 07 2004

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 20:

Column 23, line 30, please change " $d = \sqrt{0.654\rho} \cdot f^{-0.375} B^{-0.175}$ " (2)" to

$$..d = \sqrt{0.654\rho} \cdot f^{-0.375} B_m^{-0.175} \quad (2)--$$

Claim 21:

Column 23, line 60, please change " $d = \sqrt{0.137\rho} \cdot f^{-0.375} B^{-0.175}$ " (3)" to

$$..d = \sqrt{0.137\rho} \cdot f^{-0.375} B_m^{-0.175} \quad (3)--$$

Claim 22:

Column 24, line 22, please change

" $d = \sqrt{1.339\rho} \cdot f^{-0.375} B^{-0.175}$," to

$$..d = \sqrt{1.339\rho} \cdot f^{-0.375} B_m^{-0.175} ..$$

APR 07 2004

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 24:

Column 24, please delete lines 65-67

Column 25, please delete lines 1-4.

Claim 26:

Column 25 line 13, please change "lace" to "plate"

Claim 27:

Column 25, line 28, please change "(in)" to "(m)" and

Claim 28:

Column 26, line 17, please change "(in)" to "(m)".

APR 07 2004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 0205

DATE : 2/14/05

TO SPE OF : ART UNIT 2834

6628037

SUBJECT : Request for Certificate of Correction on Patent No.: ~~66 10002053~~

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:

Changes to claim 17 change scope of claim since

"a processor for driving..." was not in original claim 17

& adds new matter thereto.

JAM
2/14/05

DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2834

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 17:

Column 22, after line 35, please insert

~~--where k_h represents hysteresis loss coefficient, k_e represents eddy-current loss coefficient, ρ ($\Omega \cdot m$) represents resistivity, f (Hz) represents frequency and B (T) represents maximum amplitude magnetic flux density of the soft magnetic material; and~~

~~a processor for driving a time display by the electric energy generated by the power generator.--~~

Claim 22:

Column 24, line 22, please change

" $d = \sqrt{1.339\rho \cdot f^{-0.375} B^{-0.175}}$," to

-- $d = \sqrt{1.339\rho \cdot f^{-0.375} B_m^{-0.175}}$ --

BM

MAILING ADDRESS OF SENDER:

Epson Research and Development, Inc.
Intellectual Property Department
150 River Oaks Parkway, Suite 225
San Jose, CA 95134
Customer No. 20178

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,628,037
DATED: September 30, 2003
INVENTOR(S): Kinya Matsuzawa

It is certified that an error appears in the above identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 24:

Column 24, please delete lines 65-67

Column 25, please delete lines 1-4.

Claim 26:

Column 25 line 13, please change "lace" to --plate--and

Claim 27:

Column 25, line 28, please change "(in)" to --(m)--.



**ERICSSON INC.
6300 LEGACCY DRIVE
M/S EVR 1-C-11
PLANO TX 75024**

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APR 24 2007

OFFICE OF PETITIONS

In re Application of :
Bergstedt Leif et al :
Application No. 10/002,146 :
Filed: December 5, 2001 :
Attorney Docket No. 010315-179 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 1007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of October 1, 2002, is accepted as having been unintentionally delayed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Technology Center AU 2821..


Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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OFFICE OF THE DIRECTOR
TC 3600

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, D.C. 20036

In re Application of	:	
Kazuyuki Suzuki, et al.	:	DECISION ON PETITION
Application No. 10/002,184	:	TO WITHDRAW THE
Filed: December 5, 2001	:	HOLDING OF ABANDONMENT
For: BRAKE ADJUSTMENT METHOD AND	:	
APPARATUS THEREFOR	:	

This is in response to applicants' petition to withdraw the holding of abandonment filed December 23, 2003.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Allowability and Notice of Allowance and Issue Fees Due (hereinafter "Office action") were mailed to applicants on March 5, 2003. Since the issue fee was not received before the expiration of the three month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on July 18, 2003.

Applicants' petition submits a statement that the Office action mailed March 5, 2003 was not received. Applicant also states that a search of the file jacket and docket records indicates that the Office action was not received.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

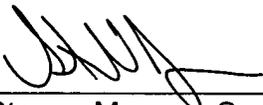
The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of June 5, 2003. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

As to requirement (3) the docket record submitted is that of the above referenced application. To satisfy requirement (3) above a docket record showing all actions due by the *firm* of Rader, Fishman, & Grauer PLLC at and around the due date of June 5, 2003 needs to be supplied.

As per applicant's request the file is being forwarded to the Office of Petitions to treat the above petition in the alternative as a Petition to Revive an Unintentionally Abandoned Application.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Steven Meyers, Special Program Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 3/15/04



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of

Suzuki, et al.

Application No. 10/002,184

Filed: December 5, 2001

Attorney Docket No. KOM-138/INO

DECISION ON PETITION

This is a decision on the petition filed December 23, 2003, titled "Petition to Withdraw Holding of Abandonment—Office action Not Received or, Alternatively, Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment was dismissed by a decision mailed March 16, 2004. The petition under 37 CFR 1.137(b) is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$1330.00 and the publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") and failure to file formal drawings as required by the Notice of Allowability. The notices were mailed on March 4, 2003, and allowed a non-extendable statutory period for reply of three months from their mailing date. No response was received within the allowable period, and the application became abandoned on June 5, 2003.

The issue fee of \$1330.00 and publication fee of \$300.00 were received on December 23, 2003.

The drawings received December 23, 2003, are noted and made of record.

The petition fee of \$1,330.00 will be charged to deposit account 18-0013, as authorized.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

COPY MAILED

MAY 25 2004

In re Application of :
Suzuki, et al. :
Application No. 10/002,184 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No.: KOM-138/INO :

OFFICE OF PETITIONS

This is a decision on the petition filed April 8, 2004, titled "Petition to Withdraw Grant of 37 CFR 1.137(b) Petition under 37 CFR 1.182." This is also a decision on the renewed petition to withdraw the holding of abandonment filed March 23, 2004.

The petition under 37 CFR 1.182 is **dismissed**.

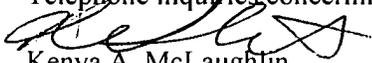
The renewed petition to withdraw the holding of abandonment is **dismissed as moot**.

A petition titled "Petition to Withdraw Holding of Abandonment—Office Action Not Received or, Alternatively, Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) was filed on December 23, 2003. The petition to withdraw the holding of abandonment was entertained by the technology center and dismissed by a decision mailed March 16, 2004. The technology center then forwarded the petition to the Office of Petitions for treatment of the petition under 37 CFR 1.137(b) that was filed in the alternative. Before deciding the petition under 37 CFR 1.137(b), the undersigned contacted Mr. Ronald P. Kananen, an attorney of record for the application, and inquired as to whether a renewed petition to withdraw the holding of abandonment would be filed. Mr. Kananen indicated that it would not. Accordingly, the petition under 37 CFR 1.137(b) was granted by a decision mailed March 31, 2004. The instant petition under 37 CFR 1.182 requests, however, that the decision granting the petition under 37 CFR 1.137(b) be vacated to allow consideration of the renewed petition to withdraw the holding of abandonment that was filed on March 23, 2004.

On May 12, 2004, the undersigned was instructed by the assistant to Mr. Kananen, that the renewed petition to withdraw the holding of abandonment should be disregarded and that the application should proceed to issuance. The instant petition under 37 CFR 1.82 is dismissed accordingly, because the instruction to disregard the renewed petition was made after the renewed petition was filed. Further, the renewed petition to withdraw the holding of abandonment is dismissed as moot because the application was revived pursuant to 37 CFR 1.137(b) and petitioner previously instructed the undersigned to disregard the renewed petition.

The application is being returned to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



Paper No. 4

DIGIMARC CORPORATION
19801 SW 72ND AVENUE
SUITE 100
TUALATIN, OR 97062

COPY MAILED

JAN 23 2002

OFFICE OF PETITIONS

In re Application of :
Tony F. Rodriguez : DECISION GRANTING
Application No. 10/002,225 : PETITION
Filed: 20 November, 2001 :
Attorney Docket No. P0490 :

This is a decision on the petition filed on 30 November, 2001, and supplemented by facsimile on 14 January, 2002, which is treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be accorded a filing date of 20 November, 2001, rather than the presently accorded filing date of 30 November, 2001.

Petitioner alleges that the application was deposited in Express Mail service on 20 November, 2001. In support, on 14 January, 2002, petitioner supplied a copy of Express Mail Label No. EL818265929US (the same Express Mail number found on the provisional application cover sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is 11/20/01.

In view of the above, the petition is granted. No petition fee is required and none has been charged.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 20 November, 2001, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: OCT 8 2004

rvk
Paper Number: #10

In re application of
Machteld M. Mertens et al

:
:

Serial No. 10/002,241

Filed: October 23, 2001

For: SYNTHESIS OF SILICOALUMINOPHOSPHATES :

DECISION ON
PETITION

This is a response to the PETITION FOR WITHDRAWAL OF ABANDONMENT UNDER 37 C.F.R. 1.181(a), filed February 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 26, 2004 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003 were not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003 were not received. Also provided is a print out copy of the Attorney's PC Master (Attachment A) showing docket



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

numbers having response due from December 23, 2003 through December 26, 2003, where the issue fee due day for SN 10/002,241 (Attorney Docket Number 2001B099) would have been posted had the Notice of Allowability and Notice of Allowance and Issue Fee Due of September 24, 2003 been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jmstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

EXXONMOBIL CHEMICAL COMPANY
P.O. BOX 2149
BAYTOWN, TX 77522-2149



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: OCT 8 2004

rvk
Paper Number: #10

In re application of
Machteld M. Mertens et al

:
:

Serial No. 10/002,241
Filed: October 23, 2001

DECISION ON
PETITION

:
:

For: SYNTHESIS OF SILICOALUMINOPHOSPHATES :

This is a response to the PETITION FOR WITHDRAWAL OF ABANDONMENT UNDER 37 C.F.R. 1.181(a), filed February 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 26, 2004 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003 were not received by the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice of Allowability and Notice of Allowance and Issue Fee Due were not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed September 24, 2003 were not received. Also provided is a print out copy of the Attorney's PC Master (Attachment A) showing docket



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

numbers having response due from December 23, 2003 through December 26, 2003, where the issue fee due day for SN 10/002,241 (Attorney Docket Number 2001B099) would have been posted had the Notice of Allowability and Notice of Allowance and Issue Fee Due of September 24, 2003 been timely received.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jmstone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

EXXONMOBIL CHEMICAL COMPANY
P.O.BOX 2149
BAYTOWN, TX 77522-2149



Samuel H. Dworetzky
AT&T CORP.
P.O. BOX 4110
Middletown, NJ 07748-4110

Paper No. 6

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SEP 04 2003

OFFICE OF PETITIONS

In re Application of	:
Kiem-Phong Vo	:
Application No. 10/002,277	: DECISION GRANTING PETITION
Filed: November 2, 2001	: UNDER 37 CFR 1.137(f)
Attorney Docket No. 1999-0707	:

This is a decision on the "PETITION TO REVIVE AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f)," filed May 21, 2003.

The petition is GRANTED.

Petitioner states that the instant nonprovisional application is the subject of a subsequently filed foreign or international application filed on October 25, 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 foreign or international application¹.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

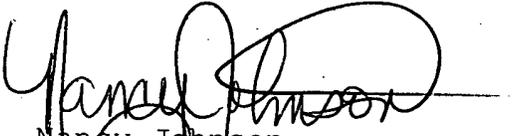
The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

¹ A Rescission of Nonpublication Request was filed on December 2, 2002. However, it was not accompanied by a Notice of Foreign Filing.

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 to show the projected publication date of December 11, 2003 accompanies this decision on petition.

The application is being forwarded to Technology Center 2155 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice Regarding Rescission of Nonpublication Request



UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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OCT 25 2002

ALLEN D. BRUFKY
FERRELL SCHULTZ CARTER ZUMPARO & FERTEL
201 SOUTH BISCAYNE BOULEVARD
34TH FLOOR, MIAMI CENTER
MIAMI, FLORIDA 33131-4325

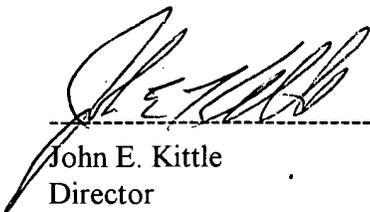
In re Application of :
Mark S. Pelak :
Serial No.: 10/002,361 : **DECISION ON PETITION**
Filed: November 23, 2001 :
For: Removable Dental Implant Appliance Mounting:

This is in response to applicants' Petition filed August 23, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle, by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.



John E. Kittle
Director
Technology Center 3700/2900



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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILPaper No. 5

LOUIS I. MEMRAN
8331 N.W. 80 STREET
TAMARAC, FL 33321

APR 18 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:)
Louis I. Memran)
Serial Number: 10/002,382)
Filed: October 20, 2001)
For: UTILIZING VACUUM TUBES IN)
COMPUTER AUDIO CIRCUITRY)

DECISION ON PETITION

This is a decision on the petition filed April 10, 2003 under 37 C.F.R. § 1.102(d), to make the above-identified application special.

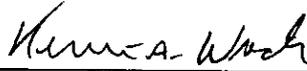
A grantable petition under 37 CFR 1.102(d) and MPEP 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petitioner does not meet requirements 2-3 above. The first requirement is considered implicitly provided by the Applicant's statement that "the motherboard offered by AOPEN.COM since June, 2002 falls within the scope of one or more of the claims of the instant application." A statement to the effect of the second requirement is apparently lacking. Requirement three is lacking, because the Applicant has not provided "one copy of each of the references..." Accordingly, the petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS from the date of this decision.

The application will be forwarded to the Technology Center's central files to await action in its normal turn.


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
WASHINGTON, DC 20231
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MAIL Paper No. 3

DONALD J. ERSLER
725 GRAVENS AVENUE
BROOKFIELD WI 53005

APR 18 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Louis I. Memran :
Application No. 10/002,382 :
Filed: October 20, 2001 :
For: UTILIZING VACUUM TUBES IN :
COMPUTER AUDIO CIRCUITRY :

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 13, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Donald J. Ersler, #38,753, is granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Louis I. Memran
8331 N.W. 80 Street
Tamarac, FL 33321



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MAIL

SEP 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION
TO MAKE SPECIAL

MELVIN D. SILVERMAN & ASSOCIATES PC
4901 NORTH FEDERAL HIGHWAY SUITE 440
FORT LAUDERDALE, FL 33308

In re Application of:
MEMRAN, LOUIS I.
Application No. 10/002,382
Filed: October 20, 2001
For: UTILIZING VACUUM TUBES IN
COMPUTER AUDIO CIRCUITRY

This is a decision on the renewed petition filed June 4, 2003 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

Requirement 2 above has not been met. Petitioner has not made the required statement that "...some of the claims are unquestionable infringed." Requirement 3 has also not been met as copies of each of the references have not been provided. A copy of the abstracts does not meet this requirement. Petitioner lists the Prichard reference as patent number 802,182, but the reference should be listed as 5,802,182.

Accordingly, the petition is **DENIED**.

The application is being forwarded to the Technology Center's central files to await action in its normal turn.

Reinhard J. Eisenzopf
Reinhard J. Eisenzopf, Director (Acting)
Technology Center 2600
Communications



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Paper No. 12
MAIL

NOV 25 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Melvin K Silverman & Associates PC
4901 North Federal Highway Suite 440
Fort Lauderdale FL 33308

In re Application of :
MEMRAN, LOUIS I. :
Application No. 10/002,382 :
Filed: October 20, 2001 :
For: UTILIZING VACUUM TUBES IN :
COMPUTER AUDIO CIRCUITRY :

: DECISION ON PETITION
: TO MAKE SPECIAL

This is a decision on the renewed petition filed October 9, 2003 under 37 CFR §1.102(d) to make the application special, which is being treated as a request for reconsideration.

A grantable petition under 37 CFR §1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and,
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the claims are not already of record.

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701



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Melvin K. Silverman
500 Cypress Creek Road
Suite 500
Fort Lauderdale, FL 33309

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MAR 08 2005

OFFICE OF PETITIONS

In re Application of :
Louis L. Memran, et al. :
Application No. 10/002,382 :
Filed: October 20, 2001 :
Attorney Docket No. 765 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Petitioner requests consideration of the five-month period where the application could not be located for patent term adjustment. It is noted that a patent term adjustment is separate from revival and it is inappropriate to address petitioner's request at this time. Petitioner should follow the guidelines set forth in 37 CFR 1.701, et seq., and file a request for patent term adjustment at the appropriate time.

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



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MAR 10 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

Melvin K Silverman & Associates PC
4901 North Federal Highway Suite 440
Fort Lauderdale FL 33308

In re Application of:
Loius I. Memran
Application Serial No.: 10/002,382
Filed: October 20, 2001
For: **UTILIZING VACUUM TUBES IN
COMPUTER AUDIO CIRCUITRY**

This is a decision on the petition, under 37 C.F.R. §1.181 and §1.182, filed on November 22, 2004 requesting the reconstruction of the patent application file.

A review of the record reveals that the application was temporarily not available due to the transition of the application from a paper file, to an electronic file within the Office. One of the benefits of this action is to prevent the misplacement of the application within the Office in the future.

The application is currently available for review and examination electronically.

Accordingly, the petition to reconstruct the file from applicant's file is **Dismissed as Moot.**

Mark R. Powell
Technology Center 2600
Communications



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Technology Center 2600

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MAR 10 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Melvin K Silverman & Associates PC
4901 North Federal Highway Suite 440
Fort Lauderdale FL 33308

In re Application of:
Loius I. Memran
Application Serial No.: 10/002,382
Filed: October 20, 2001
For: **UTILIZING VACUUM TUBES IN
COMPUTER AUDIO CIRCUITRY**

DECISION
ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181 and §1.182, filed on November 22, 2004 requesting the reconstruction of the patent application file.

A review of the record reveals that the application was temporarily not available due to the transition of the application from a paper file, to an electronic file within the Office. One of the benefits of this action is to prevent the misplacement of the application within the Office in the future.

The application is currently available for review and examination electronically.

Accordingly, the petition to reconstruct the file from applicant's file is **Dismissed as Moot**.

Mark R. Powell
Technology Center 2600
Communications

Examiner-Initiated Interview Summary	Application No. 10/002,382	Applicant(s) MEMRAN, LOUIS I.	
	Examiner Tony Jacobson	Art Unit 2644	

All Participants:

- (1) Dwayne D. Bost.
- (2) Ms. Yi Li (reg. No. 44211).

Status of Application: _____

- (3) _____.
- (4) _____.

Date of Interview: 1 February 2005

Time: _____

Type of Interview:

- Telephonic
- Video Conference
- Personal (Copy given to: Applicant Applicant's representative)

Exhibit Shown or Demonstrated: Yes No
If Yes, provide a brief description:

Part I.

Rejection(s) discussed:
N/A

Claims discussed:
N/A

Prior art documents discussed:
N/A

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
See Continuation Sheet

Part III.

- It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
- It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.


(Examiner/SPE Signature) SPRE TC2600

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: Special program examiner, Dwayne Bost, spoke with Ms. Yi Li on February 1, 2005 (power of attorney given to Ms Li in a correspondence dated 9-11-03). During the telephone conversation, Ms. Li indicated that applicant did not timely file a proper change of correspondence address prior to the mailing of the Notice of Non-Compliant Amendment, mailed April 16, 2004.

Ms. Li was then informed that the Office considers that the Notice of Non-Compliant Amendment was properly mailed to the address of record, on April 16, 2004. Ms. Li was further informed that since the maximum time period for reply to the Notice, with extensions of time, had expired, then the application is technically abandoned. Furthermore, it was indicated to Ms. Li that since the correspondence was properly mailed to the address of record, then a petition under 37 C.F.R. §1.181 with respect to non-receipt, would not be successful and that a petition pursuant to 37 C.F.R. §1.137(b) would be necessary to revive the application.

Following the conversation, on February 1, 2005 a courtesy copy of the Notice of Non-Compliant Amendment was faxed to Ms. Li so that applicant could file a proper response with their petition pursuant to 37 C.F.R. §1.137(b).

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26B3

AFTER 10 DAYS RETURN TO:

Organization: John Castel Blvd Bldg./Rm: PK2, 204 8425
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PATENT AND TRADEMARK OFFICE
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*John Knowlton To.
John Castel Blvd
Senter*





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#4
DW

MAR 17 2003

Eric D. Cohen
Welsh & Katz, Ltd.
22nd Floor
120 South Riverside Plaza
Chicago, IL 60606

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MAR 17 2003

OFFICE OF THE DIRECTOR
TC 3600

In re application of
Scott J. Swartz et al.
Application No. 10/002,384
Filed: October 26, 2001
For: METHOD FOR MARKETING
DEMOGRAPHIC-DIRECTED
PRINTED MEDIA

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on November 18, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition A) and B) above.

As to condition A), there appears to be an error in the request's asking for withdrawal of attorneys associated with Customer Number 23-0920. Customer numbers are 5 digits long. What was given may have been a deposit account number. Since the original attorneys were not given power by a customer number, and attorneys associated with a firm change over time, it is suggested that any renewed request simply state that the request is being made on behalf of all attorneys of record.

As to condition B), the reason given, that the "client, Star Enterprises, has failed to pay one or more bills," is not acceptable. While non-payment of fees is a valid reason for withdrawal under 37 CFR 10.40(c)(1)(vi), there is no indication in the file record of the assignee being the "client", and responsible for payment of legal fees. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpi: 3/7/03



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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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FEB 6 2003

MICHAEL A. SLAVIN, ESQ.
MCHALE & SLAVIN, P.A.
SUITE 402
4440 PGA BOULEVARD
PALM BEACH GARDENS FL 33410

In re Application of :
William Bodenhamer et al :
Serial No.: 10/002,402 : PETITION TO MAKE SPECIAL
Filed: October 25, 2001 :
Attorney Docket No.: 1965.021 :

This is in response to applicants' petition filed January 22, 2003, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, XII. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231; or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600



MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Lander, et al. :
Application No. 10/002,402 :
Filed: October 25, 2001 :
Attorney Docket No. 1965.021 :
For: BIOLOGICAL MATERIAL DETECTING :
ARTICLES OF MANUFACTURE :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed June 18, 2004 (certificate of mailing date June 15, 2004), to change the order of inventorship.

The petition is GRANTED. Deposit account no. 13-0439 will be charged a \$130.00 petition fee.

The order of inventors will be:

- 1. Terri Lander
- 2. William T. Bodenhamer

A replacement filing receipt is enclosed.

After the mailing of this decision, the application file will be forwarded to Publications Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: replacement filing receipt



Paper No. 16

YOUNG & THOMPSON
SUITE 200
745 SOUTH 23RD STREET
ARLINGTON, VA 22202

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DEC 02 2004

OFFICE OF PETITIONS

In re Application of
Hansson et al.
Application No. 10/002,417
Filed: October 25, 2001
Attorney Docket No. 1506-1004-1

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 19, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed November 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 21, 2003. A Notice of Abandonment was mailed on July 18, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.


Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Commissioner for Patents
United States Patent and Trademark Office
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KENNETH WATOV
WATOV & KIPNES PC
P O BOX 247
PRINCETON JUNCTION, NJ 08550

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JAN 11 2005

OFFICE OF PETITIONS

In re Application of :
Michael J. Harrison et al :
Application No. 10/002,442 : DECISION GRANTING PETITION
Filed: November 15, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 924.1.055 :

This is a decision on the petition, filed under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. Kenneth L. Cage (petitioner herein) appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. The petition also includes a request to recognize the customer number for the firm of McDermott Will & Emery LLP as the correspondence

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).

address. Since there is no indication that Mr. Cage was ever empowered to prosecute the instant application, the request will not be entered at this time. If Mr. Cage desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Cage. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Petitioner is advised that any petition to withdraw from issue, in order to ensure that it is acted on prior to issuance, should either be hand carried to the Office of Petitions or submitted to the Office of Petitions facsimile number (571-273-0025). Information concerning procedures for filing a petition to withdraw from issue may be directed to the general Office of Petitions number at 571-272-3282.

Telephone inquiries regarding this decision on petition should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3764 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Kenneth L. Cage
McDermott Will & Emery LLP
600 13th Street, NW
Washington, DC 20005-3096



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Paper No.

Edward L Pencoske Esquire
Thor Reed & Armstrong
One Oxford Centre
301 Grant Street
Pittsburgh PA 15219-1425

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of :
Keith Slavin : DECISION ON
Application No. 10/002,461 : PETITION
Filed: November 1, 2001 :
Atty Docket No. DB000955-000 :

This is a decision on the PETITION UNDER RULE 183 filed April 6, 2007, requesting waiver of § 1.131's requirement that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is GRANTED.

The above-identified application was filed on November 1, 2001, with a 37 CFR 1.63 declaration signed by sole inventor Slavin. On October 3, 2006, a final Office action was mailed in this application. This Office action set a three (3) month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a).

On April 6, 2007, petitioner responded with *inter alia* the instant petition, made timely by virtue of a certificate of mailing dated April 3, 2007 and an accompanying petition and fee for extension of time for response within the third month. This response after final was also made proper by the accompanying request for continued examination (RCE) and RCE fee.

The petition includes a DECLARATION UNDER RULE 132 by Russell Slifer on behalf of the assignee, but no DECLARATION UNDER RULE 132 by sole inventor Slavin. The petition includes a DECLARATION UNDER RULE 132 by Edward Pencoske, which is really a

declaration of facts to show that inventor Slavin refuses to sign the § 1.131 declaration.

37 CFR 1.131 states, in pertinent part:

When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicant does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR 1.131 declaration include all of the inventors.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that sole inventor Slavin sign the § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, petitioner has set forth the steps taken to obtain inventor Slavin's signature on the § 1.131 declaration. Petitioner has shown that inventor Slavin has refused to sign the § 1.131 declaration. The declaration presented is signed by Russell Slifer. The record includes a showing that the application is assigned to Micron Technology, Inc., and that this assignment is recorded in the Office at Reel/Frame, 012356/0202. The petition includes the resolution of the Board of Directors of assignee Micron that Russell Slifer is authorized to sign on behalf of assignee Micron. Under the circumstances, it is concluded that petitioner has demonstrated

that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the 1.131 declaration.

Receipt of the \$400 petition fee is acknowledged.

The application is being forwarded to Technology Center 2189 for consideration by the examiner on the merits of the reply and the 37 CFR 1.131 declaration, filed April 6, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal line extending to the right from the end of the signature.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017**

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
SLAVIN, Keith R.	:	
Application No. 10/002,461	:	DECISION ON PETITION
Filed: November 01, 2001	:	TO WITHDRAW
Attorney Docket No. DB000955-000	:	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 16, 2010.

The request is moot because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to JONES DAY has been revoked by the assignee of the patent application on March 10, 2010. 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 Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
COLUMBIA CENTER
701 FIFTH AVENUE, SUITE 6100
SEATTLE, WA 98104-7043**



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

BRIAN J. COLANDREO
FISH & RICHARDSON P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

COPY MAILED

JUN 26 2002

OFFICE OF PETITIONS

In re Application of	:	
Alden Dorosario et al	:	DECISION GRANTING
Application No. 10/002,470	:	PETITION
Filed: October 23, 2001	:	
Attorney Docket No. 10984-600001 /	:	
P-269	:	

This is a decision on the paper styled "PETITION TO ACCORD A FILING DATE" filed June 4, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of October 23, 2001, rather than the presently accorded filing date of November 23, 2001.

Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on October 23, 2001. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt no. EL485673451US, showing a Date-In of October 23, 2001. The same Express Mail receipt number appears on the original transmittal letter found in the file. Applicants request that the application be accorded a filing date of October 23, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. That is the date that verifies that the package was actually mailed. The evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 23, 2001.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to October 23, 2001.

Telephone inquiries specific to this matter should be directed to
Wan Laymon at (703) 306-5685.



Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant : Jeffrey W. Carr : DECISION ON REQUEST FOR
Patent Number : 7591957 : RECALCULATION of PATENT
Issue Date : 09/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/002,483 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/01/2001 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **324** 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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 05/17/2010

Applicant : Jeffrey W. Carr : NOTICE CONCERNING IMPROPER
Patent Number : 7591957 : CALCULATION OF PATENT TERM
Issue Date : 09/22/2009 : ADJUSTMENT BASED UPON USPTO
Application No : 10/002,483 : IMPROPERLY MEASURING REDUCTION
Filed : 11/01/2001 : 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 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 **356** 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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DANIEL A. SCOLA, JR.
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 16 2009

OFFICE OF PETITIONS

In re Application of :
Timothy Samuel GIRTON, et al :
Application No. 10/002,521 :
Filed: November 1, 2001 :
Attorney Docket No. 760-35 CIP :
: DECISION ON PETITION
: TO WITHDRAW
: FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed March 17, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Anna-Lisa Gallo does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions



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APR 13 2004

YOUNG & THOMPSON
745 SOUTH 23RD STREET 2ND FLOOR
ARLINGTON VA 22202

#12

In re Application of :
Henri Hansson et al :
Serial No : 10/002,527 : PETITION DECISION
Filed : October 25, 2001 :
Attorney Docket No: 1506-1005-1 :

This is in response to the petition under 37 CFR 1.181, filed November 21, 2003, requesting withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that a REVOCATION AND POWER OF ATTORNEY (dated August 2, 2002) was filed designating Benoit Castel and others of Young and Thompson as attorneys with power to prosecute the above-identified application. For unknown reasons this Power of Attorney was placed in the file, but never entered on Office records which resulted in the first Office action and subsequent Notice of Abandonment being mailed to the previous attorneys of record. The correct attorneys never received any communications from the Office. Applicants state that neither the Notice of Allowance nor the Notice of Abandonment was received and provide statements and docket record evidence of non-receipt in support thereof pursuant to MPEP 711.03. In view of the above evidence the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

Applicant's petition under 37 CFR 1.181, is **GRANTED**.

Applicants alternative request for relief under 37 CFR 1.137(b) is rendered moot.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions regarding 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 transmission at 703-872-9306..


Bruce Kisliuk
Director, Technology Center 1600



Paper No. 7

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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AUG 28 2002

OFFICE OF PETITIONS

In re Application of	:	
Kane, Nagel and Dombkowski	:	
Application No. 10/002,536	:	DECISION GRANTING
Filed: November 1, 2001	:	PETITION UNDER
Attorney Docket No. 65446-0087	:	37 CFR 1.47(a)
For: COMPOSITIONS AND SYSTEMS	:	
FOR IDENTIFYING AND COMPARING	:	
EXPRESSED GENES (MRNAS) IN	:	
EUKARYOTIC ORGANISMS	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 23, 2002. Petitioner obtained a four (4) month extension of time to reply. Accordingly, the petition is timely.

The petition is granted.

Petitioner has shown that Alan A. Dombkowski, Ph.D., 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 Michael D. Kane, Ph.D., establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The \$130.00 petition fee has been charged to Deposit Account No. 18-0013, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding 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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In re Patent No. 6887210 :
Issue Date: May 3,2005 :
Application No. 10002540 :DECISION GRANTING PETITION
Filed: November 13,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. CYTC-1-0701 :

This is a decision on the electronic petition, filed July 21,2009 ,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 July 21,2009 . 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.

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)
6,887,210	2005-05-03	10002540	2001-11-13	38602-702.202

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

Signature	/Michael J. Hostetler/	Date (YYYY-MM-DD)	2009-07-21
Name	Michael J. Hostetler	Registration Number	47664

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
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Paper No. 5

MAX SHAFTAL
PATZIK FRANK & SAMOTNY
150 SOUTH WACKER DR
SUITE 900
CHICAGO, IL 60606

COPY MAILED

In re Application of :
Eugene Jarvis et al :
Application No. 10/002,553 : NOTICE
Filed: November 23, 2001 : OFFICE OF PETITIONS
Attorney Docket No. 011548 :

FEB 26 2002

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 Layton
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

MAILED

JUL 21 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of:

Roberto Iribarren et al.

Application No. 10/002,555

Filed: November 1, 2001

For: METHOD AND APPARATUS FOR
PROCESSING UNMET DEMAND

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on April 19, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

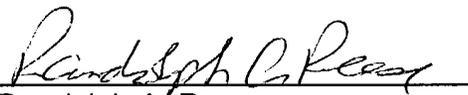
The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "discontinuation of the attorney-client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the withdrawal. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.



Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(703) 308-2121

RAR/vdb: 7/19/04



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Commissioner for Patents
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OCT 20 2008

OFFICE OF PETITIONS

In re Patent No. 6,861,504 :
Issue Date: March 1, 2005 :
Application No. 10/002,585 :
Filed: November 30, 2001 :
Attorney Docket No. 10448-0206001 / MPI :
01-316P1RN :

NOTICE

This is in response to the petition under 37 CFR 1.182, filed October 6, 2008, for acceptance of late notification of loss of entitlement to small entity status.

The statement claiming loss of entitlement to small entity status has been made of record and large entity status has been accorded.

Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KENNETH J. SHEEHAN, BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036-5304

COPY MAILED

JUN 02 2006

In re Application of : **OFFICE OF PETITIONS**
Kluge et al. :
Application No. 10/002,614 :
Filed: November 29, 2001 : NOTICE
Patent No.: 6,975,909 :
Issued: December 13, 2005 :
Title of Invention: :
ELECTRONIC PRODUCT/SERVICE MANUAL :

This is a notice regarding your request to change your entity status to large.

Office records reveal that GSE Advanced Industrial Technologies, GMBH, is the assignee of the above-identified application.

In accordance with 37 CFR 1.27(g), said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

SEP 10 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

18

In re Application of :
Jonathan M Graff et al :
Serial No.: 10/002,631 : PETITION TO MAKE SPECIAL
Filed: October 31, 2001 :
Attorney Docket No.: A34943-090495.0243 :

This is in response to applicants' petition filed April 9, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted, but the application was delayed in preexamination processing.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

Applicant's Copy

*Attach to Paper
062104*



UNITED STATES
PATENT AND
TRADEMARK OFFICE

SEP 10 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

18

In re Application of :
Jonathan M Graff et al :
Serial No.: 10/002,631 : PETITION TO MAKE SPECIAL
Filed: October 31, 2001 :
Attorney Docket No.: A34943-090495.0243 :

This is in response to applicants' petition filed April 9, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in acting on this petition is regretted, but the application was delayed in preexamination processing.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded an the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600



SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto, CA 94303

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of :
Ben Wei Chen :
Application No. 10/002,652 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket Number: 2218P :

This is a decision on the Petition for Revival of Abandoned Application under 37 CFR 1.137(b), filed March 27, 2006.

This 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, mailed August 4, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on November 5, 2004. Aa Notice of Abandonment was mailed December 20, 2004.

With the instant petition, Applicant has satisfied the requirements of a grantable petition under 37 CFR 1.137(a). The issue fee is filed with the instant petition. Accordingly, the petition is granted.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.


Derek L. Woods

Attorney
Office of Petitions



BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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MAR 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,103,765 :
Issue Date: September 5, 2006 :
Application No. 10/002,652 :
Filed: October 19, 2001 :
Attorney Docket No. 2218P :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



EDMUND P. ANDERSON
DELPHI TECHNOLOGIES, INC
LEGAL STAFF, MAIL CODE: 480-414-420
P.O. BOX 5052
TROY, MI 48007-5052

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AUG 19 2004

OFFICE OF PETITIONS

In re Application of :
Diane M. Landers et al :
Application No. 10/002,678 :
Filed: October 24, 2001 :
Attorney Docket No. PD-306553/DE3-0256 :

ON PETITION

This is a decision on the petition, filed August 18, 2004, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The file will be forwarded 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 Information Disclosure Statement.



Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Troy J. LaMontagne
55 Griffin Road South
Bloomfield, CT 06002



Philip G. Cavanaugh
26215 IVANHOE
REDFORD MI 48239

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MAR 31 2005

OFFICE OF PETITIONS

In re Application of	:
Cavanaugh	:
Application No. 10/002,690	: DECISION DISMISSING PETITION
Filed: December 5, 2001	:
Attorney Docket No. N/A	:
For: METHOD FOR THE DETECTION AND MEASUREMENT OF HAPTEN- CONJUGATED BIOLOGICAL BINDING ENTITIES BY WESTERN AND DOT- BLOT USING ANTI-HAPTEN ANTIBODIES	

This is a decision on the paper entitled "Petition to Reconsider Priority" filed November 23, 2004, which is being treated as a petition requesting that the above-identified application be accorded a filing date of no later than November 28, 2001.

Petitioner indicates that this application was mailed by first class mail to the Office on November 19, 2001. Petitioner argues that receipt of the application was delayed because there were postal delays in the Washington DC area in November 2001 due to the anthrax scare. The application papers were received in the Office on December 5, 2001. Petitioner assumed the Office would afford special consideration to correspondence mailed in November 2001. While petitioner has not requested that the application be accorded a particular filing date, it is obvious from the petition that petitioner desires that the Office accord this application a filing date within 12 months of the filing date of provisional application no. 60/253,336 – which is November 28, 2001 at the latest.

35 U.S.C. 21(a) provides that:

The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated

by the Director.

The Director may, but is not required to, accept the mailing date as the filing date. The Director has determined that only the "Express Mail" procedure can be used for this purpose because the use of "Express Mail" provides very specific identifying information in advance which establishes both the date of mailing and the particular papers being filed.

Because the filing date of an application is much more critical than the filing date of papers accepted under 37 CFR 1.8, the USPTO promulgated a separate rule, 37 CFR 1.10, which sets forth a specific procedure which must be followed in order to establish the filing date as the date of deposit with the United States Postal Service (USPS) instead of the date of receipt in the Office.

The procedure in 37 CFR 1.10 requires the use of the "Express Mail Post Office to Addressee" service of the USPS. Correspondence sent by the "Express Mail Post Office to Addressee" service is considered filed in the Office on the "date-in" entered by the USPS. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. If the procedure is not followed, applicants bear the risk of any delay in the delivery of the application papers to the Office.

In the instant petition, there is no allegation that the application papers deposited on November 19, 2001, with the USPS as first class mail to the Office, were deposited in compliance with the "Express Mail" procedures set forth in 37 CFR 1.10. Petitioner had the option of depositing the application papers in "Express Mail" service on November 19, 2001, in order to obtain the benefits of 37 CFR 1.10. Had petitioner followed the procedure set forth in 37 CFR 1.10, the application could have been accorded a filing date as of the date of deposit in "Express Mail." Thus, petitioner could have avoided the instant predicament merely by following the procedures established by the Director. Instead, petitioner chose to deposit the application papers in first class mail and, as such, assumed the risk of any delay in the delivery to the Office. Petitioner's failure to take advantage of the established procedures is not a justification for accepting a date based upon the November 19, 2001 mailing of the instant application papers by first class mail as the filing date of the above-identified application. Therefore, the application is only entitled to the December 5, 2001 receipt date as the filing date of the application.

The best evidence of when particular application papers were actually received by the USPTO is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. In the absence of a postcard receipt indicating the receipt in the USPTO of the application papers on an earlier date, the USPTO must rely on the Official record, which indicates that the instant application papers were not received in the USPTO until December 5, 2001.

In view of the above, the petition is dismissed. No petition fee is required.

The application is being forwarded to Technology Center Art Unit 1645 with the presently accorded filing date of November 5, 2001 for examination in due course.

Telephone inquiries specific to this matter 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



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY -3 2004

In re Application of
Arlene Weisenberg *et al*
Application No. 10/002,692
Filed: October 31, 2001
Attorney Docket No. 4004

:
: DECISION ON PETITION
:
:

This is a decision on the petition to make special filed on January 11, 2002. The \$130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the fact that the invention is for countering terrorism. A review of the petition shows that all of the requirements established in MPEP § 708.02(XI) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to all further actions on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3727 who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Joseph A. Yanny
Yanny & Smith
1925 Century Park East, Suite 1260
Los Angeles CA 90067



CLARIANT CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
4000 MONROE ROAD
CHARLOTTE, NC 28205

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AUG 12 2000

OFFICE OF PETITIONS

In re Application of	:	
Gary E. LeGrow, et al	:	
Application No. 10/002,710	:	ON PETITION
Filed: October 24, 2001	:	
Attorney Docket No. 2001US405	:	

This is to notify petitioner that the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on April 11, 2007, to withdraw the above-identified application from issue after payment of the issue fee, was **dismissed as moot** as of June 26, 2007, the date upon which the above-identified application issued as U.S. Patent No. 7,235,230.¹

Any inconvenience caused petitioner is regretted; however, petitioner's attention is directed to 37 CFR 1.313(d) which states that "A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue **unless it is actually received and granted by the appropriate officials before the date of issue**" (emphasis in bold). In this instance, the April 11, 2007 petition was not received by the appropriate official until after the date of issuance of U.S. Patent No. 7,235,230 on June 26, 2007. See also MPEP 1308, which states, in pertinent part:

"The Office cannot ensure that any petition under 37 CFR 1.313(c) [filed after payment of the issue fee] will be acted upon prior to the date of patent grant. See *Filing of Continuing Applications, Amendments, or Petitions after Payment of Issue Fee*, Notice, 1221 Off. Gaz. Pat. Office 14 (April 6, 1999) . . . applicants are strongly cautioned to file any desired RCE prior to payment of issue fee. In addition, applicants considering filing a RCE after payment of the issue fee are strongly cautioned to call the Office of Petitions to determine whether sufficient time remains before the patent issue date to consider (and grant) a petition under 37 CFR 1.313(c) and what steps are needed to ensure that a grantable petition under 37 CFR 1.313(c) is before an appropriate official in the Office of Petitions in sufficient time to grant the petition before the patent is issued" (emphasis in bold).

¹ The jurisdiction of the Office over an application ends once the application issues as a patent.

While petitions to withdraw from issue after payment of the issue fee may be transmitted by facsimile to the Centralized Facsimile Number, as was done in this case, applicants were cautioned to hand carry or transmit by facsimile the petition to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. (See *Centralized Delivery and Facsimile Transmission Requirements for Patent Application Related Correspondence*, 1275 *Off. Gaz. Pat. Office* 200 (Oct. 28, 2003)).

Because the April 11, 2007 petition under 37 CFR 1.313(c) to withdraw from issue was not granted prior to issuance of the application into a patent, the Request for Continued Examination (RCE) filed on April 11, 2007, is considered an improper submission under 37 CFR 1.114. Accordingly, the RCE and accompanying Information Disclosure Statement (IDS) will remain in the file of the above-identified patent without further consideration.

Under the circumstances of this case, no fees in regard to papers filed on April 11, 2007, are necessary. Therefore counsel's deposit account will be credited the \$130 petition fee and the \$790 RCE filing fee paid on April 11, 2007.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date

: May 6, 2009

Patent No. :7457265
Inventor(s) :Julka, et al.
Issued :November 25, 2008
Title :MOBILITY MANAGEMENT ENTITY FOR HIGH DATA RATE WIRELESS
:COMMUNICATION NETWORKS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

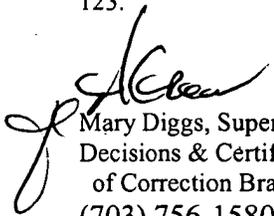
By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.



Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch

(703) 756-1580 or (703) 756-1541

Sidney L. Weatherford
6300 legacy, MS EVR 1-C-11
Piano, Tx 75024

/arg



CYPRESS C/O MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

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JUN 16 2008

In re Application of :
Ogami, et al. : DECISION ON PETITION
Application No. 10/002,726 :
Filed: October 24, 2001 :
Atty. Dkt. No.: CYPR-CD01171M :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 27, 2008.

This application was held abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed February 6, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed July 2, 2007.

Petitioners assert that a response to the Notice was timely submitted May 11, 2007 and have provided as proof of submission and proof of receipt a postcard bearing a USPTO date stamp to this effect.

The original response filed May 11, 2007 has been located in the application file. The response contains a certificate of mailing date of May 7, 2007. A review of the Office finance records reveals that the check submitted with the issue fee transmittal bounced. However, the issue fee transmittal authorized the use of a deposit account for any deficit fees due. Office finance records reveal that sufficient funds were on hand in the deposit account to cover the required issue fee payment.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

No fee is due in connection with this matter. A refund of the \$130.00 petition fee submitted herewith will issue in due course.

The application file is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney,
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of
Bascle et al.
Application No. 10/002,737
Filed: November 2, 2001
Attorney Docket No. 2000P09024US01

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:
:
:

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 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 the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.


Liana Chase Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNES, DICKEY & PIERCE
P.O. BOX 8910
RESTON VA 20195

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Amab Das et al :
Application No. 10/002,746 : DECISION GRANTING PETITION
Filed: November 2, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 14-18 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 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 a Notice of Appeal; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of May 5, 2004, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$2,160 extension of time submitted with the petition on January 10, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2685.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of
Vogels et al. :
Application No. 10/002,750 :
Filed: November 15, 2001 : NOTICE
Patent No. 6,974,695 :
Issued: December 13, 2005 :
Attorney Docket Number: 2183-5148US :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



Paper No. 7

MAIL

MAY 25 2004

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2800**

DECISION ON PETITION

Lawrence S. Cohen, Attorney
Suite 1220
10960 Wilshire Boulevard
Los Angeles CA 90024

In re Application of :
Robert A. Lieberman, et al. :
Application No. 10/002,759 :
Filed: October 31, 2001 :
For: SURVEILLANCE SYSTEM AND METHOD :

This is a decision on the request filed April 13, 2004, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond to the Office Communication mailed on October 21, 2003, which set a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of the Office Communication, whichever is longer, to submit a complete reply to the Non-final Office Action mailed June 20, 2003. A Notice of Abandonment was mailed on March 19, 2004.

Petitioner alleges to have timely filed a proper response to the Non-final Office Action mailed June 20, 2003. In support, petitioner has provided as evidence, a copy of the response to the Non-final Office Action, which included a Certificate of Facsimile Transmission to an Office facsimile number (703) 746-5838 with a transmission date of October 20, 2003. The Certificate of Facsimile Transmission was signed by the Practitioner, who is also the instant Petitioner. In further support of the petition, Petitioner has provided a Facsimile Activity Report that shows a complete Facsimile transmission on the same date to the Office.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. [emphasis added]

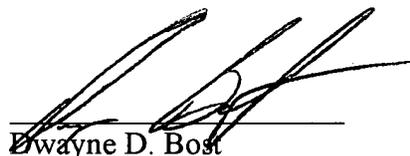
The telephone referred to in the petition is the personal fax number of SPE Daniel Wu (AU2632). Therefore, it is concluded that the papers were timely filed via facsimile transmission to a facsimile number of the U.S. Patent and Trademark Office in compliance with the requirements of 37 CFR 1.8(a)(1).

Accordingly, Petitioner has complied with the requirements of 37 C.F.R. §1.8(b) above. The petition is **GRANTED**.

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 entry of the amendment which accompanied the petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Petitioner is reminded that the Official Facsimile Number for all incoming correspondence to the Office is (703) 872-9306. Petitioner may want to note this number in order to avoid any future correspondence problems.



E. Wayne D. Bost
Special Program Examiner
Technology Center 2600
Communications



Paper No. 7

WILLIAMS, MORGAN & AMERSON, P.C.
7676 HILLMONT, SUITE 250
HOUSTON, TX 77040

COPY MAILED

MAY 02 2003

OFFICE OF PETITIONS

In re Application of :
Ricki D. Williams :
Application No. 10/002,776 :
Filed: November 2, 2001 :
Attorney Docket No. 2070.005600 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 25, 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 January 3, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 4, 2002.

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. As such, the "NOTICE OF CHANGE OF ADDRESS," filed March 25, 2003, has not been entered.

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 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.

A handwritten signature in black ink, appearing to read "Ed J. Tannouse", followed by a long horizontal line extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

cc.
B. NOEL KIVLIN
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398



Paper No. 7

STEVEN J. FUNK
SPRINT CORPORATION
8140 WARD PARKWAY
KANSAS CITY MO 64114

COPY MAILED

JUN 25 2003

OFFICE OF PETITIONS

In re Application of	:	
McConnell et al.	:	DECISION ON PETITION
Application No. 10/002,805	:	UNDER 37 CFR 1.137(f)
Filed: 3 December, 2001	:	
Atty Docket No. 1704	:	

This is a decision on the Petition under 37 CFR 1.137(f), filed on 13 May, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;¹ (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition is in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the

¹The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date, 2 October, 2003, accompanies this decision on petition.

This application is being forwarded to Technology Center 3700, for further processing.

Telephone inquiries specifically concerning this decision be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attch: Notice Regarding Rescission of Nonpublication Request



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

William H. Saltzman
30 East 65th Street
New York, NY 10021

MAILED

SEP 26 2003

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of

Antony Gravett et al.

Application No. 10/002,841

Filed: November 28, 2001

For: METHOD FOR CONDUCTING ON-LINE:
TRANSACTIONS AND SYSTEM
THEREFOR

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on July 15, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/ekn 9/24/03



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FEB - 7 2006

EDWARDS & ANGELL, LLP
P. O. BOX 55874
BOSTON, MA 02205

In re Application of :
Mark C. Poznansky et al :
Serial No.: 10/002,854 : PETITION DECISION
Filed: November 1, 2001 :
Attorney Docket No.: 62053CIP :

This is in response to the petition under 37 CFR 1.181, filed January 20, 2006, requesting withdrawal of the Final rejection, and alternatively application of 37 CFR 1.183, if necessary.

BACKGROUND

A review of the file history shows that applicants filed a reply to a non-Final Office action on December 21, 2004, in response to the rejection of claims 1, 10 and 85-105, some of which were amended. The examiner then mailed a Final Office action to applicants on March 30, 2005, again rejecting all claims under 35 U.S.C. 103(a) as obvious over Yamaguchi et al. On June 30, 2005, applicants filed a reply to the Final Office action in which claims 87-90, 99 and 101-104 were canceled and claims 1, 10, 85-86, 100 and 105 were amended and the rejection argued.

On or about July 27, 2005, applicants' attorney, Amy Leahy, contacted the examiner to determine the status of the submitted amendment. The examiner orally indicated that the amendment did not place the application in condition for allowance and that an Advisory action was in preparation which would give further explanation. Based on the oral indication of non-allowance, applicants filed a Notice of Appeal on August 1, 2005. For unexplained reasons the Advisory Action was not mailed to applicants until December 8, 2005, indicating that the amendment of June 30, 2005, would be entered, but did not place the application in condition for allowance.

Applicants filed this petition on January 20, 2006, seeking withdrawal of the Final Office action or, alternatively, to restart the period for reply so as to allow applicants proper time to respond to the Advisory action.

DISCUSSION

Applicants do not argue that the Final Office action was premature or improper. Therefore, withdrawal of the finality of the Office action is not proper. Applicants do request restarting of the time period for reply. However, applicants do not argue non-receipt or late receipt of the

Final Office action. Therefor there is no proper reason for restarting the period for reply. In fact applicants do argue that they filed a timely reply to the Final Office action within the three month shortened statutory period set and that they followed up to determine the status of the reply within four weeks of the filing thereof. At that time they were orally informed that the amendment did not place the application in condition for allowance, but were not informed as to whether the amendment would be entered or not, only that an Advisory action would be forthcoming. Unfortunately, and for unexplained reasons, the Advisory action accompanied by the telephone Interview Summary, was not mailed to applicants until December 8, 2005. This occurred despite applicants' additional telephone inquiries to the examiner as to when the Advisory action would be mailed and its content. Applicants argue that the delay has prejudiced them in responding to the examiner's comments as to why the lone rejection of record was not overcome by applicants' previous response. Applicants seek restarting of the period for reply to the Final Office action so as to allow them a further opportunity to respond to the /final Office action or, if necessary, waiver of the Rules under 37 CFR 1.183 to allow such action on the part of applicants.

It is noted that applicants filed a Notice of Appeal based on the above noted telephone interview as to the status of the amendment submitted in response to the Final Office action. The filing of the Notice of Appeal triggered the start of a new time period under 37 CFR 1.192 for filing of an Appeal Brief. The Notice of Appeal was filed four months after the issuance of the Final Office action, not at the end of the six month statutory period. The filing of the Notice of Appeal and its entry in the Office PALM system effected a change of status for the application which removed it from the examiner's pending docket and deleted the requirement for mailing of an Advisory action from the examiner's docket. Such, however, does not excuse the examiner's delay in failing to timely mail the Advisory action, but may explain why it happened. Applicants do indicate that several telephone calls were made to the examiner as to when the Advisory action would be mailed, but no indication is given as to when those calls were made.

In view of the fact that it was applicants' action, the filing of the Notice of Appeal, which triggered the start of the time period currently running for filing of the Appeal Brief, or taking other appropriate action, no relief requested by applicants can be granted. Further, while the circumstances which engendered this petition are unusual, they do not appear to rise to the level of the requirements for granting a waiver under 37 CFR 1.183. Such circumstances generally would arise only when an action required by one Rule would conflict with the requirements of another Rule. Such is not seen herein.

DECISION

The petition is **DENIED**.

Applicants' Appeal Brief (or the taking of other appropriate action) remains due within the time period set in 37 CFR 1.192, or as may be extended under 37 CFR 1.136(a).

As there is not fee for this petition, the petition fee paid of \$400.00 will be credited to applicants' Deposit Account No. 04-1105, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

A handwritten signature in black ink, appearing to read "Bruce M. Kisliuk". The signature is fluid and cursive, with the first name "Bruce" being the most prominent.

Bruce M. Kisliuk
Director, Technology Center 1600



**EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205**

COPY MAILED

SEP 11 2006

OFFICE OF PETITIONS

In re Application of :
Mark C. Poznansky et al :
Application No. 10/002,854 :
Filed: November 1, 2001 :
Attorney Docket No. M0765/7038/(ERG/KA) :

ON PETITION

This is a decision on the petition, filed September 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 15, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1651 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).



**EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205**

COPY MAILED

NOV 03 2006

OFFICE OF PETITIONS

In re Application of :
Mark C. Poznansky et al :
Application No. 10/002,854 : DECISION ON PETITION
Filed: November 1, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. M0765/7038/(ERG/KA) :

This is a decision on the petition filed September 7, 2006, which is being treated as a petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119 and 37 CFR 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)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119 and 37

CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment filed September 7, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed application.



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
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/002,854	11/01/2001	1651	1519	M0765/7038/ (ERG/KA)	6	20	15

21874
 EDWARDS & ANGELL, LLP
 P.O. BOX 55874
 BOSTON, MA 02205

CONFIRMATION NO. 3669
CORRECTED FILING RECEIPT
OC000000021097299
 OC000000021097299

Date Mailed: 11/03/2006

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)

Mark C. Poznansky, Charlestown, MA;
 David T. Scadden, Weston, MA;
 Ivona T. Olszak, Charlestown, MA;
 Edward M. Brown, Milton, MA;

Power of Attorney: The patent practitioners associated with Customer Number **21874**.

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/US00/15440 06/02/2000
 which claims benefit of 60/200,861 05/01/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/002,854**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

CAR RECEPTOR AS A MEDIATOR OF MIGRATORY CELL CHEMOTAXIS AND/OR CHEMOKINESIS

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 20 2002

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE NM 87125-6927

#7

In re Application of :
Albert Sattin et al :
Serial No.: 10/002,878 : PETITION TO MAKE SPECIAL
Filed: November 14, 2001 :
Attorney Docket No.: 30429-CIP :

This is in response to applicants' petition filed April 24, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**. The delay in responding to this petition is regretted.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-3599.


William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600



Paper No. 9

Meir Ibguy
632 Kings Hwy, apt. 3C
Brooklyn NY 11223

COPY MAILED

MAY 19 2004

In re Application of :
Ibguy :
Application No. 10/002,888 :
Filed: January 30, 2002 :
Attorney Docket No. N/A :
FOR: DEVICE FOR DISTRIBUTING
ANTIBACTERIAL SPRAY IN A HUMAN
SHOE

OFFICE OF PETITIONS

**DECISION DISMISSING
PETITION**

This is a decision on the petition entitled, "PETITION TO REVIVE THE APPLICATION, filed April 12, 2004. The petition is captioned as a petition to revive and petitioner has provided speculation as to why the application became abandoned. However, because no petition fee was submitted, the petition can only be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely reply to the non[-final Office action mailed December 18, 2002, which set an extendable period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 19, 2003. A Notice of Abandonment was mailed on July 17, 2003.

Petitioner alleges that he did not receive the December 18, 2002 non-final Office action.

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 and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

A review of the record indicates no irregularity in the mailing of the December 18, 2002 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioner has not proven nonreceipt because (1) petitioner did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) petitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

It is noted that petitioner is a *pro se* applicant. Thus, petitioner may not have a formal docketing system. However, petitioner must provide the Office with evidence to prove the allegation of non-receipt.

In any renewed petition, (1) petitioner must state that the Office communication was not received and that he searched the place where he normally would keep such communications and couldn't find it. (2) Petitioner must explain his system for keeping track of patent matters -- where he keeps the correspondence (Does petitioner have a file where he keeps correspondence pertaining to this application?), where he writes down due dates (This need not be a log. This may be in the form of a calendar or a date book), how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner did not receive the December 18, 2002 non-final Office action.

Since petitioner states that he did not receive the December 18, 2002 non-final Office action, a copy is enclosed.

ALTERNATIVE VENUES

If petitioner is unable to prove that he did not receive the December 18, 2002 non-final Office action, petitioner can pursue one of the following two options.

(1) Petitioner may wish to file a petition under 37 CFR 1.137(a) -- the unavoidable standard.

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l) -- \$55.00; and (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.

Documentary evidence is the key to proving unavoidable delay.

OR

(2) Petitioner may wish 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 prosecution or in late payment of an issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by (1) the required reply to the December 18, 2002 non-final Office action; (2) the \$665.00 petition fee; and (3) a statement 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 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 can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

For petitioner’s convenience, blank copies of the 2 types of revival forms are enclosed with this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should 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

Enclosures: December 18, 2002 non-final Office action

blank PTO/SB/64 -- PETITION FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

blank PTO/SB/61 -- PETITION FOR REVIVAL OF AN APPLICATION FOR
PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

Privacy Act Statement



Paper No. 12

Meir Ibguy
632 Kings Hwy, apt. 3C
Brooklyn NY 11223

COPY MAILED

AUG 27 2004

OFFICE OF PETITIONS

In re Application of :
Ibguy :
Application No. 10/002,888 :
Filed: January 30, 2002 :
Attorney Docket No. N/A :
FOR: DEVICE FOR DISTRIBUTING
ANTIBACTERIAL SPRAY IN A HUMAN
SHOE

**DECISION GRANTING
PETITION**

This is a decision on the petition under 37 CFR 1.137(a), filed July 15, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the non[-final Office action mailed December 18, 2002, which set an extendable period for reply of three (3) months. Having obtained no extensions of time under 37 CFR 1.136(a), this application became abandoned on March 19, 2003. A Notice of Abandonment was mailed on July 17, 2003.

Petitioner asserts that he did not receive the December 18, 2002 non-final Office action. In support of his argument, petitioner has submitted a statement from his regular USPS mail carrier, Howard Moskowitz, dated July 5, 2004. Mr. Moskowitz states that during December of 2002, when the December 18, 2002 non-final Office action was mailed, he was on vacation and that the substitute carrier who took his route did not deliver mail to the proper addresses in Mr. Ibguy's building. A complaint was lodged against the substitute carrier by several residents of Mr. Ibguy's building in the main post office of the east coast of the United States of America alleging mail was not delivered during December 2002.

Petitioner has carried his burden of establishing unavoidable delay. The petition is **GRANTED**.

The file is being forwarded to Technology Center 3700's technical support staff for processing the amendment filed with the instant petition. The examiner of record will consider the amendment in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script that reads "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



Paper No. 05092006

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

MAY 15 2006

In re Application of	:	
Makoto KITABATAKE	:	DECISION ON PETITION
Application No. 10/002,913	:	
Filed: October 23, 2001	:	
For: SEMICONDUCTOR ELEMENT	:	

This is a decision on the petition filed March 17, 2005, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED**.

A Notice of Allowance and Fee(s) Due (Notice of Allowance) was mailed on October 20, 2004, setting a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance was not received by applicant's representative and attests to the fact that a search of the file and docket records indicates that the Notice of Allowance was not received. The petition is accompanied by a copy of the docket record where the Notice of Allowance would have been entered had it been received and docketed and a declaration by Jodi Gandel-Klein, the Docketing Supervisor.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action 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 action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Applicant has provided the required statement attesting to the fact that a search of the file and docket records indicates that the Notice of Allowance was not received. Further, applicant has provided a copy of the docket record where the non-received Notice of Allowance would have been received had it been received and docketed.

Since applicant has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The period for response set therein will be reset to expire three months from the date these Notices are remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

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



Paper No. 5

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MAY 07 2002

OFFICE OF PETITIONS

DECISION GRANTING
PETITION

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of:
Kux, *et al.*
Application No. 10/002,925
Filed: November 2, 2001
Attorney Docket No. 1999P1778

This is a decision on the February 19, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 2, 2001 rather than the presently accorded filing date of November 4, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 2, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL758653084US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 2, 2001.

In view of the above, *this petition is granted.*

This application will be returned to Initial Patent Examination Division for correction of the filing date to November 2, 2001.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

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APR 22 2004

In re Application of
Lawrence E. Felton et al
Application No. 10/002,953
Filed: October 23, 2001
Attorney Docket No. 2550/117

:
:
:
: OFFICE OF PETITIONS
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)
:

This is a decision on the petition, filed April 21, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

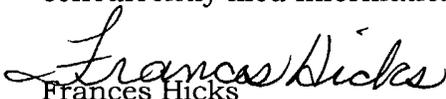
The petition is **GRANTED**.

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 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 08 2007

OFFICE OF PETITIONS

**DANIEL L. DAWES
MYERS, DAWES & ANDRAS LLP
19900 MACARTHUR BLVD, STE 1150
IRVINE, CA 92612**

In re Application of	:	
FLORES, David R., et al.	:	
Application No. 10/002,977	:	DECISION ON PETITION
Filed: November 14, 2001	:	TO WITHDRAW
Attorney Docket No. STR4.PAU.02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 2, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Daniel L. Dawes of MYERS DAWES & ANDRAS LLP has been revoked by the applicant of the patent application on December 1, 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: **DAVID FLORES
STRATEGY CENTRIC
3009 BERN DRIVE
LAGUNA BEACH, CA 92651**

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)
6,827,730	2004-12-07	10003009	2001-11-23	06-00944US03

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 |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

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	/Kevin G. Waddick/	Date (YYYY-MM-DD)	2009-06-10
Name	Kevin G. Waddick	Registration Number	57007

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. 6827730 :
Issue Date: December 7,2004 :
Application No. 10003009 :DECISION GRANTING PETITION
Filed: November 23,2001 :UNDER 37 CFR 1.378(c)
Attorney Docket No. ENDOV-58795 :

This is a decision on the electronic petition, filed June 10,2009 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 10,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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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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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

In re Application of
COEN THEODORUS HUBERTUS
FRANSISCUS LIEDENBAUM
Application No. 10/003,061
Filed: November 2, 2001
For: DISPLAY DEVICE

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

Paper No. 9
MAIL

JUL - 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the Petition to Withdraw Holding of Abandonment based on failure to receive an office action under 37 CFR 1.181(a), filed May 20, 2004. No fee is required.

This application was held abandoned for failure to timely submit a response to the final Office action mailed September 25, 2003. A Notice of Abandonment was mailed April 28, 2004.

Petitioner alleges that the final Office action was not received.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. Therefore, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application is being forwarded to the Technology Center's technical support staff for re-mailing the final Office action originally mailed September 25, 2003. The shortened statutory period will be re-set to begin as of the mailing thereof.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED

JUN 18 2003

OFFICE OF PETITIONS

In re Application of
Steven D. Roach
Application No. 10/003,096
Filed: December 6, 2001
Attorney Docket No.: LT-140
Title: CIRCUITRY AND METHODS FOR
IMPROVING THE PERFORMANCE OF A
LIGHT EMITTING ELEMENT

DECISION DISMISSING PETITION
UNDER 37 C.F.R. §1.137(F) AS MOOT

This is a decision on the petition filed on April 8, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

- (1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication¹;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
- (3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in either a foreign country on November 28, 2002.

On October 18, 2002, a Request to Rescind the Nonpublication Request was filed with the Office. Therefore, the Nonpublication Request was rescinded prior to the foreign filing. If an applicant makes a nonpublication request and then rescinds the nonpublication request before or

¹ See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at <http://www.uspto.gov/web/forms/index.html>.

on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made².

37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

For the reason set forth above, the petition under 37 C.F.R. §1.137(f) is **DISMISSED AS MOOT**.

As such, no petition fee is necessary. The petition fee has been refunded to petitioner's Deposit Account, as authorized in the petition.

After the mailing of this decision, the application file will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

² Rescission generally has the effect of voiding, repealing, or annulling a previous action. See Black's Law Dictionary 1308 (7th ed. 1999) (second definition: to make void, to repeal, or annul). Thus, if an applicant makes a nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) will be treated as annulled and the application will be treated as if the nonpublication request had never been made. See <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm>.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OCT 16 2003

Paper No. 9

In re Application of	:
10/003,099	: DECISION GRANTING PETITION
Application No.	: UNER 37 C.F.R. § 1.181 FOR NEW
Filed: 12/06/01	: OFFICE ACTION
Attorney Docket No. 2910.0010	:

This is a decision on the petition filed on 7/28/2003, Petition Under 37 C.F.R. § 1.181 For New Office Action.

The petitioner requests a new Office action be provided that clearly sets forth the grounds for the restriction requirement and responds to the traversal arguments.

Upon review of the original restriction requirement, it has been found defective. The examiner failed to meet all the evidentiary requirements, for example, "showing of burden on the Office" and providing examples of distinctness.

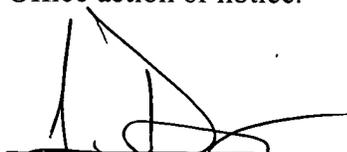
The Office Action mailed on 5/7/2003 is also found defective. It fails to answer the arguments with respect to the traversing of the restriction. It also fails to make the restriction "FINAL" as required by MPEP § 821.01 and therefore the Office Action is incomplete.

The interview summary mailed on 6/18/2003 does not address the failure of the Office actions of making the case for "restriction", answers the arguments on the traversal and making "FINAL" of the second Office Action. The interview summary does not clarify the restriction.

Accordingly, the Office action mailed on 5/7/2003 is hereby withdrawn.

A new Office action will reconsider the restriction and the new Office Action will provide clarity as to the Office's position.

The Office communication will be remailed and the shortened statutory period that was originally set forth in the Office communication shall be restarted to run from the mail date of the newly supplied Office action or notice.



James Dwyer, Director
Technology Center 2800



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United States Patent and Trademark Office
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P.O. Box 1450
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Michael J. Femal
Square D Company
1415 South Roselle Road
Palatine, IL 60067

Mail Date: 04/21/2010

Applicant : Andrew G. Swales : DECISION ON REQUEST FOR
Patent Number : 7590702 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/003,123 : OF WYETH AND NOTICE OF INTENT TO
Filed : 11/26/2001 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/29/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/003125** Patent No.: **6710058**

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.

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.

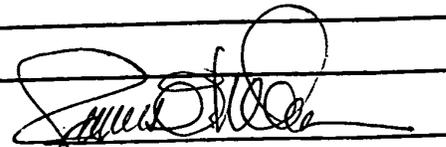
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____



SPE

1624
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office



UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
www.uspto.gov

Paper No. 4

MAIL

OCT 10 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO CA 94306

In re Application of :
Omura et al. :
Application No. 10/003,128 :
Filed: November 14, 2001 :
For: ROBUST DATA TRANSMISSION USING :
BROADCAST DIGITAL TELEVISION SIGNALS :

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on July 15, 2002.

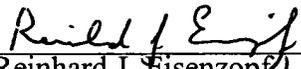
A grantable request to withdraw as attorney/agent of record must:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys in the application are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.


Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711

cc: Rick Dunning
Law Office of Richard A. Dunning, Jr.
325M Sharon Park Drive, Suite 208
Menlo Park, CA 94025



BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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MAY 31 2006

OFFICE OF PETITIONS

In re Application of :
Eugene P. Matter et al. : **ON PETITION**
Application No. 10/003,170 :
Filed: November 14, 2001 :
Attorney Docket No. 42390P12396 :

This is a decision on the petition filed February 15, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-referenced application was held abandoned on October 23, 2005 for failure to file a proper reply to a Final Office Action mailed July 22, 2005 in compliance with 37 CFR 1.113. A response was filed October 24, 2005, but by advisory action mailed November 8, 2005, petitioner was advised that the response did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed March 20, 2006.

Comes now petitioners with the instant petition to revive and Notice of Appeal. Additionally, a review of the file reveals that an Appeal Brief was filed April 14, 2006.

The Notice of Appeal filed February 15, 2006, has been entered and made of record. Although petitioners have submitted the Appeal Brief, the agency is obligated to inform petitioners that they have a two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, and that the two (2)-month period runs from the date of this decision.

The matter is being referred to Technology Center 2187 for a review of the Notice of Appeal and the Appeal Brief.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



Paper No. 9

MELVIN L. CRANE
318 SOUTH CLEVELAND STREET
ARLINGTON, VA 22204

COPY MAILED

AUG 26 2003

OFFICE OF PETITIONS

In re Application of	:	
Coleman, et al.	:	
Application No. 10/003,183	:	ON PETITION
Filed: December 6, 2001	:	
Title: Candy Cruncher	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2003, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely reply to the Office action mailed December 10, 2002. Accordingly, this application became abandoned on March 11, 2003. A Notice of Abandonment was mailed on July 21, 2003.

The file is being forwarded to Technology Center 3700 for review of the amendment filed August 19, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



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DW Sep-06

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Jeffrey Edfarb :
Application No. 10/003,198 : DECISION ON PETITION
Filed: 31 October, 2001 :
Atty Docket No. 12186/1 :

This is a decision on the petition filed on 3 May, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 23 January, 2004, for failure to timely file a reply to the non-final Office action mailed on 22 October, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 4 May, 2004.

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 require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioner has filed an amendment as the required reply.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.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.

Receipt of the revocation and power of attorney filed with the present petition is acknowledged.

This application is being referred to Technology Center Art Unit 2859 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
 Notice of Acceptance of Power of Attorney

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).



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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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MAR 08 2010

In re Patent No. 7,583,395 : DECISION ON REQUEST
Ohtsu : FOR RECONSIDERATION OF
Issue Date: September 1, 2009 : PATENT TERM ADJUSTMENT
Application No. 10/003,257 : and
Filed: December 6, 2001 : NOTICE OF INTENT TO ISSUE
Atty. Docket No. 065905-0240 : CERTIFICATE OF CORRECTION

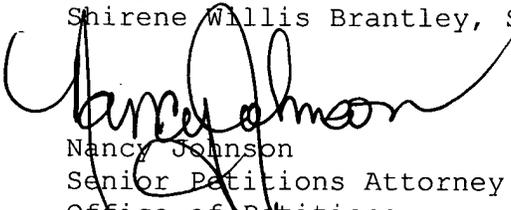
This is a decision on the petition filed on October 29, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand three hundred ninety-nine (2,399) 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 two thousand three hundred ninety-nine (2,399) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. 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 two thousand three hundred ninety-nine (2,399) days.

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,583,395 B2

DATED : September 1, 2009

INVENTOR(S) : Akira Ohtsu

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 (1,972) days

Delete the phrase "by 1,972 days" and insert – by 2,399 days--



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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

SEP 24 2009

OFFICE OF PETITIONS

In re Application of :
Cheng et al. :
Application No. 10/003315 : ON PETITION
Filing or 371(c) Date: 12/06/2001 :
Attorney Docket Number: :
004832.00073 :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed August 4, 2009.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 18, 2008.

Applicant files the present petition, Notice of Appeal and fee. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 2443 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief.
Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

RAM Fee History
Query
 Revenue Accounting and Management

Name/Number: 10003315

Total Records Found: 18

Start Date: Any Date

End Date: Any Date.

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/28/2009	00000002	4	<u>1402</u>	-\$540.00	08/04/2009	DA 190733
08/04/2009	00012016	4	<u>1402</u>	\$540.00	08/04/2009	DA 190733
08/04/2009	00012015	4	<u>1453</u>	\$1,620.00	08/04/2009	DA 190733
10/17/2008	00008852	4	<u>1401</u>	\$540.00	10/17/2008	DA 190733
10/17/2008	00008851	4	<u>1253</u>	\$1,110.00	10/17/2008	DA 190733
08/22/2008	00008202	4	<u>8021</u>	\$40.00	08/22/2008	DA 190733
01/24/2008	00004335	4	<u>1253</u>	\$1,050.00	01/23/2008	DA 190733
01/24/2008	00003287	4	<u>1253</u>	\$1,050.00	01/23/2008	DA 190733
07/03/2007	00006402	4	<u>1255</u>	\$2,160.00	07/02/2007	DA 190733
07/03/2007	00006403	4	<u>1801</u>	\$790.00	07/02/2007	DA 190733
12/01/2006	00004138	4	<u>1253</u>	\$1,020.00	12/01/2006	DA 190733
12/01/2006	00004095	4	<u>1401</u>	\$500.00	12/01/2006	DA 190733
04/12/2006	00000156		<u>1253</u>	\$1,020.00	04/11/2006	DA 190733
06/29/2005	00000126	4	<u>8021</u>	\$120.00	06/29/2005	DA 190733
06/28/2005	00000102	4	<u>8021</u>	\$120.00	06/27/2005	DA 190733
02/26/2002	00000134	1	<u>581</u>	\$40.00	02/20/2002	CK
02/21/2002	00000001	1	<u>205</u>	\$65.00	02/15/2002	CK
12/10/2001	00000083	1	<u>201</u>	\$370.00	12/06/2001	CK

Adjustment Date: 09/28/2009 LDIEP1
 08/04/2009 INTEFSW 00007719 190733 10003315
 02 FC:1402 540.00 CR

09/28/2009 LDIEP1 00000002 190733 10003315
 01 FC:1401 540.00 DA



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1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
OCT 08 2009
OFFICE OF PETITIONS

In re Application of : CORRECTED
Cheng et al. : DECISION
Application No. 10/003315 : ON PETITION
Filing or 371(c) Date: 12/06/2001 :
Attorney Docket Number: :
004832.00073 :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed August 4, 2009.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 18, 2008.

Applicant files the present petition, Notice of Appeal and fee. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 2443 for processing of the brief in support of appeal, filed with the present petition on August 24, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions



Paper No. 15

**SUMMA & ALLAN PA
11610 NORTH COMMUNITY HOUSE ROAD
SUITE 200
CHARLOTTE, NC 28277**

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JAN 23 2004

OFFICE OF PETITIONS

In re Application of
David B. Slater, Jr.
Application No. 10/003,331
Filed: October 31, 2001
Attorney Docket No. 5000.113A

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)
:

This is a decision on the petition, filed January 21, 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 29, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to 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 2818 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).

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)
6646046	2003-11-11	10003342	2001-12-06	Q67280

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 |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

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)	2007-02-01
Name	David J. Cushing	Registration Number	28730

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. 6646046 :
Issue Date: November 11,2003 :
Application No. 10003342 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 6,2001 :
Attorney Docket No. Q67280 :

This is a decision on the electronic petition, filed February 1,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

COPY MAILED

DEC 03 2009

OFFICE OF PETITIONS

In re Application of :
Kuno et al. :
Application No. 10/003,349 : **DECISION ON PETITION**
Filed: December 6, 2001 :
Attorney Docket No. 10018402-1 :

This is a decision on the petition filed April 9, 2009 to withdraw the holding of abandonment pursuant to 37 CFR 1.181(no fee).

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notification of Non-Compliant Appeal Brief mailed December 27, 2007, which set an extendable one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before January 27, 2008. A Notice of Abandonment was mailed on February 5, 2009.

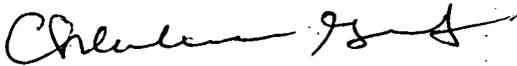
Petitioner asserts that the Notification of Non-Compliant Appeal Brief dated December 27, 2007 was not received because it was mailed to the incorrect address.

A review of the written record indicates a request to change the address to Mitchell Silverburg and Knupp, LLP was not requested by applicants. Thus, the Notice was mailed to the incorrect address. The change of address should not have been entered. Accordingly, as the Notice was mailed to an incorrect address, the holding of abandonment is withdrawn.

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.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being referred to the Technology Center technical support staff of Art Unit 2453 for re-mailing the Office action of December 27, 2007 and resetting the period for reply.



Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Dan C. Hu
Trop, Pruner & Hu, P.C..
1616 South Voss Road, Suite 750
Houston, Texas 77057-2631



Commissioner for Patents
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 Alexandria, VA 22313-1450
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CLINE H. WHITE
 JACKSON WALKER L.L.P.
 SUITE 2100
 112 E. PECAN STREET
 SAN ANTONIO TX 78205

COPY MAILED

FEB 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Roger Moczygemba	:	
Application No. 10/003,361	:	DECISION ON PETITION
Filed: November 15, 2001	:	
Attorney Docket No. P-120971.01 (uti)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 7, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 8, 2006. A Notice of Abandonment was mailed August 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(1)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable.**" [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 8, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Cline H. White of Jackson Walker L.L.P. was counsel of record at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of the practice of Jackson Walker L.L.P. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Cline H. White and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Jackson Walker L.L.P., and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the practice of Jackson Walker L.L.P. and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

- (A) the date that the applicant first became aware of the abandonment of the application; and
- (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York

University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office. It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Nick A Nichols, Jr.
 P.O. Box 16399
 Sugar Land TX 77496-6399



UNITED STATES 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. 021705

Philip W. Woo
C/o SIDLEY AUSTIN BROWN & WOOD LLP
555 California Street
Suite 5000
San Francisco, CA 94104-1715

FEB 23 2005

In re Application of:	:	
Adrian E. Ong	:	
Serial No.: 10/003,375	:	<i>SUA SPONTE</i>
Filed: November 15, 2001	:	DECISION WITHDRAWING HOLDING OF
Attorney Docket No.: M-9433 US	:	ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on February 24, 2004.

A Notice of Change of Address was filed March 4, 2003. Subsequently, numerous office communications were sent to the old correspondence address of record. In the absence of an apparent response to the last Office action mailed February 24, 2004, the application was held abandoned and a Notice of Abandonment was mailed on February 7, 2005.

A review of the written record indicates that the Notice of Change of Address, although having been received in the Office on March 4, 2003, was not processed. As a result, the Office action was mailed to an incorrect correspondence address of record. Accordingly, it cannot be presumed that the Office action reached practitioner at the correct correspondence address. Therefore, the application was not abandoned in fact.

For the above stated reason, 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 remailing the Office action. The shortened statutory period for response set therein will be reset to run 3 months from the date the Office action is remailed. Extensions of time are available under 37 C.F.R. § 1.136(a).

Inquiries regarding this decision should be directed to Nestor R. Ramirez at (571) 272-2034.



Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



Paper No. 3

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

COPY MAILED

JAN 16 2002

OFFICE OF PETITIONS

In re Application of :
Pazhyannur, Ali, and Rananand : DECISION REFUSING STATUS
Application No. 10/003,378 : UNDER 37 CFR 1.47(a)
Filed: 15 November, 2001 :
Attorney Docket No. CE08500R :

This is in response to the petition filed under 37 CFR 1.47(a) on 15 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 15 November, 2001, with a declaration naming Rajesh S. Pazhyannur, Irfan Ali, and Nol Rananand as joint inventors and signed by inventors Pazhyannur and Ali on behalf of themselves and joint inventor Rananand. The present petition was also filed on 15 November,

2001.

Petitioners state that they attempted to deliver "the relevant application papers" to Rananand via DHL courier service, but that the shipment was returned to the sender.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regard to item (1), the showing of record, a single mailing and single email message, is not sufficient to show that diligent efforts were made to contact the non-signing inventor. Petitioners should attempt to determine the non-signing inventors current address through e-mail, national registry, or other types of searches. If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that the non-signing inventor cannot be reached.

Petitioners should submit 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. 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.

Additionally, as a copy of the application papers (specification, including claims, drawings, if any, and the declaration) must be sent to the non-signing inventor, petitioners should explain what papers were actually sent to the non-signing inventor.

n regards to item (1), petitioners have not provided proof that In the event that the application is returned as undeliverable by the post office, petitioners should provide 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. 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 refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Paper No. 6

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

COPY MAILED

MAY 10 2002

OFFICE OF PETITIONS

In re Application of :
Pazhyannur, Ali, and Rananand : DECISION NOTHING JOINDER
Application No. 10/003,378 : AND PETITION UNDER
Filed: 15 November, 2001 : 37 CFR 1.47(a) MOOT
Attorney Docket No. CE08500R :

Papers filed on 14 February, 2002, included a Declaration signed by the previously non-signing joint inventor, Nol Rananandan, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be forwarded to 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 4, 2005

TO SPE OF : ART UNIT 1600

SUBJECT : Request for Certificate of Correction on Patent No.: 6791015

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-915

Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please see the proposed inventor deletion under IFW code PET. and COCIN.

Thank You For Your Assistance

Ernest White
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

The petition to correct inventorship
is approved.

DeM... [Signature]
SPE

1638
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

FSP LLC
P.O. BOX 890
VANCOUVER WA 98666

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JUL 26 2006
OFFICE OF PETITIONS

In re Application of :
Cook et al. :
Application No. 10/003,393 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. FSP0011 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.


Liana Chase
Petitions Examiner
Office of Petitions

Enclosure: PTOL-85b

PART B - FEE(S) TRANSMITTAL

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 or Fax (571)-273-2885**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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EXAMINER	ART UNIT	CLASS-SUBCLASS
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<p>1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).</p> <p><input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.</p> <p><input type="checkbox"/> "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.</p>	<p>2. For printing on the patent front page, list</p> <p>(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, _____ 1</p> <p>(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. _____ 2</p> <p>_____ 3</p>
--	---

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE _____ (B) RESIDENCE: (CITY and STATE OR COUNTRY) _____

Please check the appropriate assignee category or categories (will not be printed on the patent): Individual Corporation or other private group entity Government

<p>4a. The following fee(s) are submitted:</p> <p><input type="checkbox"/> Issue Fee</p> <p><input type="checkbox"/> Publication Fee (No small entity discount permitted)</p> <p><input type="checkbox"/> Advance Order - # of Copies _____</p>	<p>4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)</p> <p><input type="checkbox"/> A check is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).</p>
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5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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)
6,591,980	2003-07-15	10/003,398	2001-10-22	01-111

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 |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

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	/Lawrence S. Cohen/	Date (YYYY-MM-DD)	2007-09-06
Name	Lawrence S. Cohen	Registration Number	25225

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. 6591980 :
Issue Date: July 15,2003 :
Application No. 10003398 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 22,2001 :
Attorney Docket No. 01/111 :

This is a decision on the electronic petition, filed September 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 September 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.



BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

OCT 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,498,492
Issued: March 3, 2009
Application No. 10/003,405
Filed: December 6, 2001
Attorney Docket No. 1021565-000110

:
: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. 1.705(d)" filed May 2, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from Five Hundred Twenty Six (526) days to Nine Hundred Thirty-Eight (938) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 3, 2009, the above-identified application matured into US Patent No. 7,498,492 with a patent term adjustment of 526 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The Office notes that applicant informally requested suspension of the proceeding until resolution of the Wyeth disposition.¹ The Office notes that it is not suspending decisions on the 37 CFR 1.705(d) requests for PTA reconsiderations because suspension of the rendering of decisions on requests for reconsideration of the determination of patent term adjustment under 37 CFR 1.705(d) presently before deciding Officials is inconsistent with the statutory framework, 35 U.S.C. 154, which only allows 180 days for filing a civil action challenging the Office's decision.

¹It is noted that such request was not pursuant to 37 CFR 1.182 or 1.183. However, in the interest of providing a response to applicant, the Office is outlining its position as to suspension of decision per outcome of CAFC decision.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 938 days, which is the sum of 1037 days of patent term adjustment due to exceeding three year pendency and 412 days due to USPTO delay in prosecution minus 511 days of applicant delay.

The 1037-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 6, 2001, and a request for continued examination (RCE) having being filed on October 9, 2007. The filing of an RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1). Patentees assert that in addition to this 1037-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 412 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 511 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (1037 days) and the period of Examination Delay (412 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1449 days, which is the sum of the period of Three Year Delay (1037 days) and the period of Examination Delay (412 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 938 days (1037 + 412 reduced by 0 overlap – 511(applicant delay)).

The Office agrees that as of the filing of the RCE on October 9, 2007, the application was pending three years and 1037 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 412 days is correct. At issue is whether patentees should accrue 1037 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 412 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 1037 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely

track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154(b)(1)] are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718²

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

² The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In this instance, the relevant period under 35 U.S.C. 154(b) (l) (B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b) (2) (A) is the entire period during which the application was pending before the Office until the filing of the RCE, December 6, 2001 to October 9, 2007. During that time, the issuance of the patent was delayed by 1037 days, not 412 + 1037 days. The Office took 14 months and 412 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 412 days of Office delay and the 511 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 1037 days after its filing date. The Office did not delay 412 days and then an additional 1037 days. Accordingly, 1037 days of patent term adjustment (not 412 and 1037 days) was properly entered since the period of delay of 1037 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 412 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 412 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 1037 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy



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**WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050**

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MAR 10 2009

OFFICE OF PETITIONS

In re Application of :
Aillette M. **SIERRA, et al.** :
Application No. 10/003,462 :
Filed: December 6, 2001 :
Attorney Docket No. **3159-920US** :

DECISION ON PETITION TO
WITHDRAW FROM RECORD
UNDER 37 CFR 1.36(b)

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 23, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **WILSON SONSINI GOODRICH & ROSATI** has been revoked by the assignee of the patent application on October 1, 2008. 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: **TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070207

DATE : February 7, 2007

TO SPE OF : ART UNIT 3723

SUBJECT : Request for Certificate of Correction on Patent No.: 6,962,147

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - PK 3-910

Palm location 7590 - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

The changes to drawing figure 8, and to column 6, lines 2-3, 5 and 8, would appear to be new matter, and will not be entered. The other changes, dealing with typographical errors, are approved.



SPE: Joseph Hail

Art Unit 3723



MAIL

JUL 11 2002

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

BRIAN F. SCHROEDER
Schroeder & Siegfried, P.A.
222 South Ninth Street, Suite 2870
Minneapolis, Minnesota 55402

In re Application of
David A. Struyk
Application No.: 10/003,518
Filed: October 30, 2001
For: REMOTE VIEWING SYSTEM
INCORPORATING RELATIVE DIRECTIONAL
INDICATION

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition under 37 C.F.R. § 1.102, filed June 11, 2002, to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

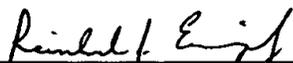
A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The above requirements are met and therefore the petition is **GRANTED**.

The application will maintain its special status throughout its entire course of prosecution at the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.



Reinhard J. Eisenzopf
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4711



MARKS & CLERK
P.O. BOX 957
STATION B
OTTAWA, ON K1P 5S7
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Albert, Jacques
Application No. 10/003,525
Filed: December 6, 2001
Attorney Docket No. 12313-US

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 3, 2003, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed March 13, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 14, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$930.00 extension of time fee submitted on September 15, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 10/662,882.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.


Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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In re Application of
Thomas P. Hager, et al.
Application No. 10/003,529
Filed: October 31, 2001
Attorney Docket No. 25145A

ON PETITION

This is a decision in response to the petition, filed April 30, 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 a failure to reply in a timely manner to a non-final Office action mailed December 29, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 30, 2007. A Notice of Abandonment was mailed on July 11, 2007. On April 30, 2008, the present petition was filed.

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 Carol H. Peters 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 on whose behalf she acts. A courtesy copy of this decision is being mailed to petitioner. However, if Attorney Peters desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,540; and (3) an adequate statement of unintentional delay¹.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for

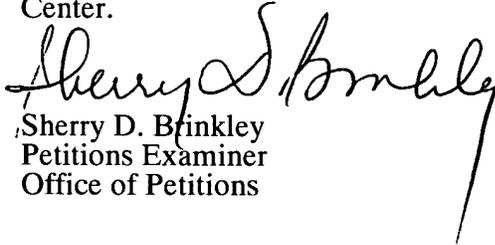
¹ 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the \$1,050 extension fees included with this petition.

Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 1774 for appropriate action by the Examiner in the normal course of business on the reply received April 30, 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

cc: CAROL H. PETERS
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111



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PRINCETON NJ 08543-5312

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Klink :
Application No. 10/003,543 : ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. PU000147 :
For: LIQUID CRYSTAL DISPLAY IMAGER
AND CLOCK REDUCTION METHOD

This is a decision on the petition under 37 CFR 1.137(b), filed on January 31, 2005 (certificate of mailing date January 26, 2005) to revive the above-identified application.

The above-identified application became abandoned for failure to properly and timely reply to the July 9, 2004 final Office action which set an extendable three (3) month period for reply. No extensions of time being obtained under 37 CFR 1.136(a), and no reply being received, this application became abandoned on October 10, 2004. A Notice of Abandonment was mailed on January 12, 2005.

Applicant has submitted a RCE and required fee and amendment in reply to the July 9, 2004 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 9, 2004 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center A.U. 2673's technical support staff for processing the RCE and amendment filed on January 31, 2005 (certificate of mailing date January 26, 2005).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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CHICAGO IL 60606

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APR 06 2005

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

**DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT**

In re Application of
Michael Abler
Application No. 10/003,552
Filed: October 24, 2001
For: **METHOD AND APPARATUS FOR
SCROLLING AN IMAGE TO BE PRESENTED
ON A DISPLAY UNIT**

This is in response to the Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181, filed November 3, 2004. No fee is required.

The application is held as abandoned for failure to timely file the issue fee in response to the Notice of Allowance and Issue Fee due communication mailed March 22, 2004. A Notice of Abandonment has not yet been mailed.

Petitioner states that they did not receive the Notice of Allowance mailed March 22, 2004. In support thereof, petitioner provides a copy of their docket records and provides a statement that the file jacket and docket records were searched and that the Notice of Allowance was not received.

In the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petition complies with all of the requirements set forth above, with the exception that the person signing the petition is not a recognized practitioner of-record. Accordingly, the petition fails to meet the requirements set forth above.

However, a review of the file record indicates that the Notice of Allowance was returned to the Office as undeliverable. The correspondence address on the Notice of Allowance mailed on March 22, 2004 matches the address confirmed in the subject petition. Thus, there was obviously an irregularity in mailing of the Office action.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

Since it has been established that the Notice of Allowance was not received, it is presumed that the practitioner also failed to receive the Notice of Allowability. The Notice of Allowability will also be re-mailed with the new Notice of Allowance.

The application file is being forwarded to the group technical support staff for re-mailing of the Notice of Allowance and Notice of Allowability originally mailed July 23, 2004. The time period for payment of the issue fee will be reset to run from the mailing date of the new Notice of Allowance and Issue Fee due.



Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications



MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

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MAR 02 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No. 10/003,553 :
Filed: October 24, 2001 :
Attorney Docket No. 00680365 :

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 2, 2007 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 May 18, 2005. 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 August 19, 2005. A Notice of Abandonment was mailed on November 1, 2006.

Petitioner asserts that the Office Action mailed on May 18, 2005 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.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to Art Unit 2618 for re-mailing of the non-final Office Action to the correspondence address of record. The three month time period for reply will be set to run from the mailing date of the new Office Communication

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a large initial "C".

Charlema R. Grant

Petitions Attorney

Office of Petitions



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CHICAGO IL 60690-2828

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MAR 02 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No. 10/003,553 :
Filed: October 24, 2001 :
Attorney Docket No. 00680365 :

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 2, 2007 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 May 18, 2005. 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 August 19, 2005. A Notice of Abandonment was mailed on November 1, 2006.

Petitioner asserts that the Office Action mailed on May 18, 2005 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.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being forwarded to Art Unit 2618 for re-mailing of the non-final Office Action to the correspondence address of record. The three month time period for reply will be set to run from the mailing date of the new Office Communication



CANTOR COLBURN LLP - BELLSOUTH
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of
Nguyen et al.
Application No. 10/003,554
Filed: November 2, 2001
Title of Invention: System and Method for
Caller Controlled Time Demarcation

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 22, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of September 22, 2005. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and two month extension of time were filed on January 31, 2006. An Advisory Action stating that the amendment did not place the application in condition for allowance was mailed on April 6, 2006. An untimely Notice of Appeal and Request for Pre Appeal Brief Conference were filed on April 24, 2006. Accordingly, this application became abandoned on February 23, 2006. A Notice of Abandonment was mailed on May 5, 2006. A Notice of Panel Decision from Pre-Appeal Brief Review mailed on May 15, 2006 stated that the request was improper because the application was abandoned prior to filing the request.

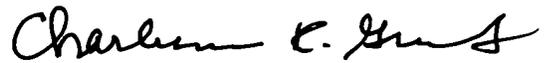
The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), will be the later of the two-month period set in 37 CFR 41.37(a) or one month from the mail date of the decision on the request for Pre-Appeal Brief Review.

Pursuant to petitioner's request, deposit account 06-1130 will be refunded the \$500.00 Notice of Appeal fee which was untimely.

The application will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is written in a cursive style with a large initial "C" and a stylized "G".

Charlema R. Grant

Petitions Attorney

Office of Petitions



TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUL 21 2008

In re Application of

Cabillic, et al.

ON PETITION

Application No. 10/003,570

Filing Date: October 24, 2001

Attorney Docket No. TI-32157

This is a decision on the petition under 37 CFR 1.137(b), filed March 16, 2007.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper response to the final Office action mailed December 28, 2005. The application became abandoned on May 29, 2006.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

Examiner Wei Zhen has determined that the amendment filed March 16, 2007, does not place the application in condition for allowance. The petition is being granted on the basis of the Notice of Appeal and Appeal Brief filed March 16, 2007.

The application is being forwarded to Technology Center 2100, GAU 2191 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

Office of Petitions: Decision Count Sheet

Mailing Month

Office of Petitions Internal Document (version: 4.26.6)

Application No.

10003570



For US serial numbers: enter number only, no slashes or commas. Ex: 10123456

For PCT: enter "51+single digit of year of filing+last 5 numbers", Ex. for PCT/US05/12345, enter 51512345

Deciding Official:

THORNTON-McLAUGHLIN, KENYA

Count (1) - Palm Credit

10/003,570

Decision Type:

502 - 37 CFR 1.137(b) - REVIVAL BASED ON UNINTENTIONAL DELAY IN ABN APF

Decision:

GRANT

Time Period for Reply:

n/a

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Notes:

Count (2)

Decision Type:

NONE

Decision:

n/a

Time Period for Reply:

n/a

Notes:

Count (3)

Decision Type:

NONE

Decision:

n/a

Time Period for Reply:

n/a

Notes:

Initials of Approving Official (if required)

if more than 3 decisions, attach 2nd count sheet & mark this box



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APR 13 2007

OFFICE OF PETITIONS

In re Application of :
Roger R. Dube :
Application No. 10/003,572 : DECISION ON PETITION
Filed: 30 October, 2001 :
Atty Docket No. GATEP002 :
:

This is a decision on the petition, filed on 8 January, 2007, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioners states that the present nonprovisional application is the subject of a foreign or international application filed on 1 November, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m);
and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

The application matured into Patent No. 7,177,426 on 13 February, 2007. Therefore, no further action being required.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



Paper No. 9

ROBERT O. WRIGHT
42 BOSTON PLACE
PALM COAST FL 32137

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OFFICE OF PETITIONS

In re Application of
Truett
Application No. 10/003,590
Filed: October 31, 2001
Attorney Docket No. 1024
For: HYBRID LIMIT SWITCH

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), to revive the above-identified application. Both petitions were filed in the same paper on April 26, 2004.

The petition under 37 CFR 1.137(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to timely respond to the Restriction Requirement set in the October 23, 2002 Office action. The Office action set an extendable one month period for reply. On January 21, 2003 (certificate of mailing date January 13, 2003), applicant filed an amendment. This amendment was untimely because applicant did not file a request for a two month extension of time and submit the required fee. On April 9, 2003, petitioner alleges that a telephone conversation between himself and a USPTO employee took place, during which the USPTO employee told petitioner to submit a two month extension of time fee immediately in order to avoid abandonment. On April 10, 2003, petitioner mailed a \$205.00 check with a request for a two month extension of time. The Office's position is that the application became abandoned on January 24, 2003. A Notice of Abandonment was mailed on April 16, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was

unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word unavoidable ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

The Office mailed a Restriction Requirement on October 23, 2002. The Office action set an extendable one month period for reply. Petitioner filed an election on January 13, 2003. Unfortunately, petitioner did not submit a request for a two month extension of time and required fee at that time. Therefore, the January 13, 2003 election was untimely.

Petitioner filed a request for a two month extension of time and required fee on April 10, 2003. However, the extension fee due on April 10, 2003 was **\$985.00**, which was the then-current small entity fee for a **5 month** extension of time.

As explained in MPEP 710.02(e), where a reply is filed after the set period for reply has expired

and no petition or fee accompanies it, the reply will not be accepted as timely filed until the petition and the appropriate fee are submitted. In this case, for the election to have been considered timely filed, a request for a 5 month extension of time and a check for \$985.00 were required. In essence, petitioner bought an extension of time only to January 23, 2004, when an extension of time to April 23, 2004 was required.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

Regarding petitioner's allegation that a USPTO employee told him that the untimely election would be acceptable with only a request for a two month extension of time and required fee, petitioner is reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985). The USPTO employee's alleged statements cannot eviscerate USPTO regulations.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Petitioner has submitted a reply in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the October 23, 2002 Office action, and the \$665.00 petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision, the application will be forwarded to the examiner of record in Technology Center GAU 2832 for consideration of the election filed January 21, 2003 (certificate of mailing date January 13, 2003).

Telephone inquiries concerning this decision should 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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ROBERT O. WRIGHT
42 BOSTON PLACE
PALM COAST, FL 32137

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AUG 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Brett B. Truett	:	
Application No. 10/003,590	:	ON PETITION
Filed: October 31, 2001	:	
Attorney Docket No. 1024	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on January 8, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed September 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of \$700 for payment of the issue fee and \$300 for payment of the publication fee; (2) the petition fee of \$750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of \$3 for one (1) advance order soft copy filed on January 8, 2007.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions



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AUG 18 2005

OFFICE OF PETITIONS

In re Application of :
Mitterer, et al. : LETTER REGARDING
Application No. 10/003,621 : PATENT TERM ADJUSTMENT
Filed: November 2, 2001 :
Attorney Docket No. 20695D-000110US:

This is in response to the "REQUEST FOR RE-DETERMINATION OF PATENT TERM ADJUSTMENT," filed March 3, 2005, pursuant to their duty of good faith and candor to the Office. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred forty-seven (347) days to two hundred eighty-seven (287) 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 twenty-four (224) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 10, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is 347 days. On March 3, 2005, applicants submitted the instant paper, disclosing that a period of reduction of 60 days should have been entered for applicant delay in responding to the final Office action mailed June 2, 2004.

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that pursuant to § 1.704(b), a period of reduction should have been entered for applicant delay in responding to the Office action mailed June 2, 2004. Specifically, applicants' response, a request for continued examination, was not received until November 1, 2004, three months and 60 days later. Accordingly, applicants are correct that a period of reduction of 60 days should have been entered for this delay.

A review of the record reveals a further basis for reduction. Section 1.704(c)(7) provides that:

Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

In this instance, a response to the non-final Office action was received on March 15, 2002. However, the non-final Office action required submission of a certified copy of a priority document. The certified copy was not filed until May 17, 2004. Accordingly, pursuant to § 1.704(c)(7), the PTA should be reduced by 63 days, the number of days beginning on the day after the date the reply having an omission was filed, March 16, 2004 and paper correcting the omission was filed, May 17, 2004.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred twenty-four (224) days ($347 - (63 + 60)$).

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the \$200.00 application fee under 37 CFR 1.705(b). The Office thanks applicants for their good faith and candor in bringing this matter to the attention of the Office.

The application is being forwarded to the Publishing Division for timely issuance of the patent.

Application No. 10/003,621

Page 3

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

Enclosure: Copy of Revised PAIR Screen

SPE M. Anderson

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/5/04

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/003,629 Patent No.: 6999801

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

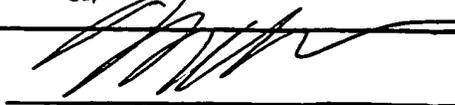
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

Matthew D. Anderson
Supervisory Patent Examiner



2618

SPE

Art Unit



Paper No. 9

AUDLEY A. CIAMPORCERO JR.
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

AUG 07 2002

OFFICE OF PETITIONS

In re Application of	:
Lee et al.	:
Application No. 10/003,632	: DECISION GRANTING PETITION
Filed: 2 November, 2001	:
Attorney's Docket No. CEN-269	:

This is a decision on the paper filed on 26 June, 2002 (certificate of mailing 19 June, 2002), which is treated as a petition under 37 CFR 1.53(e) filed on 1 March, 2002, to accord the above-identified application a filing date of 2 November, 2001.

The petition is granted.

On 2 November, 2001, the application was filed. On 19 April, 2002, however, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that, *inter alia*, the application had not been accorded a filing date because the application had been deposited without drawings. A two (2)-month period for reply was set.

In response, on 26 June, 2002 (certificate of mailing date 19 June, 2002), the present petition was filed. Petitioner requests that the application be accorded a filing date of 2 November, 2001.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).¹ A review of the record reveals that Claims 27 and 29 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention.

¹MPEP 601.01(f).

Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. No petition fee is due.

The "Notice of Incomplete Nonprovisional Application" mailed on 19 April, 2002, is hereby vacated to the extent that it stated that the application had been deposited without drawings.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 2 November, 2001, and for an indication on the bib-data sheet that no (0) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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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C. JAMES BUSHMAN
BROWNING BUSHMAN P.C.
SUITE 1800
5718 WESTHEIMER
HOUSTON TX 77057-5771

MAILED

JAN 11 2010

OFFICE OF PETITIONS

In re Patent No. 7,149,701 :
Issue Date: December 12, 2006 :
Application No. 10/003,633 :
Filed: November 2, 2001 :
Attorney Docket No. CLEARSTRM-8 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

for Thurman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED

FEB 24 2003

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

In re Application Serial No.:

10 / 003, 662

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of

Wolfe, et al.

Application No. 10/003,674

Filed: October 23, 2001

Attorney Docket No. 50128/002003

COPY MAILED

SEP 05 2006

OFFICE OF PETITIONS

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DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 29, 2004, which set a period for reply of one (1) month 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 December 3, 2004. A Notice of Abandonment was mailed on July 26, 2005.

The amendment filed July 21, 2006, is noted.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office

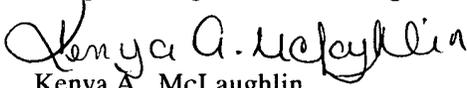
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results

in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. Accordingly, the "Change of Correspondence Address", filed July 21, 2006, cannot be entered at this juncture. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 1600, GAU 1647 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

Peter J. Manso
Edwards Angell Palmer & Dodge, LLP
PO Box 55874
Boston, MA 02205



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: JUL 14 2003

chk
Paper No. 7

In re Application of Frank J. Kronzer
Serial No.: 10/003698
Filed: October 31, 2001

**DECISION ON PETITION
UNDER 37 CFR 1.48(a)**

For: HEAT TRANSFER PAPER WITH
PEELABLE FILM AND DISCONTINUOUS
COATINGS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed October 31, 2001 to correct inventorship under 37 C.F.R. 1.48(a) by adding the names of Robert A. Janssen 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 and (4) providing the processing fee set forth in 1.17(i);

However, applicant has failed to submit the requirement of (5) providing the written consent of the assignee as required under 37 C.F.R. § 1.48(a).

The request is **DENIED**.


Cynthia H. Kelly
Supervisory Patent Examiner
Technology Center 1700

THEODORE M. GREEN
KILPATRICK STOCKTON LLP
1100 PEACHTREE STREET
ATLANTA, GEORGIA 30309



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

DEC 22 2009

OFFICE OF PETITIONS

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

In re Application of :
Ross : DECISION ON PETITION
Application No. 10/003,719 : PURSUANT TO
Filed: October 30, 2001 : 37 C.F.R. § 1.181(A)
Attorney Docket Number: :
29094/14:2 :
Title: VERIFICATION ENGINE FOR :
USER AUTHENTICATION :

This is a decision on the petition filed November 4, 2009, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

On March 6, 2009, a Pre-Appeal Brief Request for Review was filed along with a Notice of Appeal. On May 5, 2009, a Notice of Panel Decision from Pre-Appeal Brief Review (notice) was mailed, indicating that the application remained under appeal. The notice indicated that a response was due by June 5, 2009, and that extensions of time were available. No response was received, and no extension of time was requested. As such, this application went abandoned on June 6, 2009. A notice of abandonment was mailed on October 13, 2009.

With the present petition, Petitioner has requested that the holding of abandonment be withdrawn.

Petitioner has indicated that at the time of the mailing the notice of abandonment, Applicant was still in a position to purchase an extension of time¹ (the maximum extendable period for

¹ Petition, page 2.

response expired on November 5, 2009). Petitioner has further indicated "Applicant seeks to have the case pending for the purpose of filing a continuation or an RCE of the subject application by November 5, 2009."² Accordingly, a five-month extension of time was submitted concurrently with this petition, so as to extend the period for submitting a response to the notice of May 5, 2009 until November 5, 2009 (the day following the day on which this petition was filed).

The petition under 37 C.F.R. § 1.181(a) is **GRANTED** to the extent that the holding of abandonment is **WITHDRAWN**, as it has been established that the notice of abandonment was mailed prior to the expiration of the maximum extendable period for reply.

However, the electronic record has been reviewed, and a response to the notice of May 5, 2009 (such as an Appeal Brief or the aforementioned continuation or RCE) has not been located in the electronic file. As such, pursuant to 37 C.F.R. § 1.135(a),³ **this application went abandoned by operation of law on November 6, 2009.**

Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard. **Any delay in promptly seeking relief under 37 C.F.R. § 1.137 may be considered evidence of intentional delay and an absolute bar to revival.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.⁴

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

² *Id.*

³ "If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise."

⁴ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 14 2003

OFFICE OF PETITIONS

In re Application of :
Ronald B. Luther et al :
Application No. 10/003,782 : **DECISION GRANTING PETITION**
Filed: October 31, 2001 : **UNDER 37 CFR 1.137(f)**
Attorney Docket No. RLUTHER.013A :

This is a decision on the petition, filed December 24, 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 October 31, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 1, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3763 for examination in due course.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID J. THIBODEAU, JR.
HAMILTON, BROOK, SMITH & REYNOLDS
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAY 13 2005

OFFICE OF PETITIONS

In re Application of :
Lee Kamensky et al :
Application No. 10/003,805 :
Filed: November 2, 2001 :
Attorney Docket No. 2657.2004-001 :

ON PETITION

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 30, 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 2142 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 06

Scott C. Harris
FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

JAN 28 2003

In re Application of: :
Scott Patrick Campbell :
Application No. 10/003,821 : DECISION ON REQUEST TO
Filed: October 31, 2001 : WITHDRAW FROM RECORD
For: FRAME SCALE PACKAGE :
USING CONTACT LINES THROUGH :
THE ELEMENTS :

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 30, 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 that can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above requirements. The request was signed by Scott C. Harris, an attorney of record in the above identified application. On December 04, 2002, the Office mailed an Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through June 04, 2003. As such, there is at least thirty (30) days remaining between the date of this decision and the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

The request is approved.

The application currently has no attorney of record.

All future communications from the Office will be directed to Tom D'Amico, at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.



Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Micron Technology, Inc.
c/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington, DC 20037-1526



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MICRON TECHNOLOGY, INC.
C/O TOM D'AMICO
DICKSTEIN, SHAPIRO, MORAN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

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AUG 11 2005

OFFICE OF PETITIONS

In re Application of :
Scott Patrick Campbell :
Application No. 10/003,821 : DECISION GRANTING PETITION
Filed: October 31, 2001 : UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. 08305/110001/PBIT-0141.00 :

This is a decision on the petition, filed August 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2829 for processing of the request for continued examination and for consideration of the submission under 37 CFR 1.114.


Frances Hicks
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT and TRADEMARK OFFICE

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:

In re application of :
Moon, J.E. et al. :
Serial No. 10/003,851 : DECISION ON
Filed: November 02, 2001 : PETITION
For: METHOD FOR FABRICATING MEMS AND :
MICROFLUIDICS DEVICES USING SMILE, LATENT :
MASKING AND DELAYED LOCOS TECHNIQUE :

This is a decision on the SUBMISSION OF BLACK AND WHITE PHOTOGRAPHS AND PETITION TO ACCEPT BLACK AND WHITE PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(b), filed November 2, 2001 to permit black and white photographs for the above-identified application. Since the Office no longer requires a petition and petition fee for black and white photographs there is no action required by the Office.

The petition is **DISMISSED**.

Greg Mills
Supervisory Patent Examiner
Art Unit 1763

Christopher R. Pastel
WALL MARJAMA & BILINSKI, LLP
Suite 400
101 South Salina Street
Syracuse, NY 13202