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JONES, WALKER, WAECHTER, POITEVENT, CARRERE
& DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE, LA 70809

COPY MAILED

MAR 31 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Kolb :
Application No. 10/003,877 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket No. 16313/94484-00 :

This is a decision on the petition filed February 15, 2005, which is being treated as a request under 37 CFR 3.81(b), to correct the assignee after payment of the issue fee.

The requested corrected is found to be consistent with the application's assignment recorded on June 15, 2004 (Reel/Frame: 015494/0840).

The petition is granted.

The file is being forwarded to Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

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

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& DENEGRE, L.L.P.
5TH FLOOR, FOUR UNITED PLAZA
8555 UNITED PLAZA BOULEVARD
BATON ROUGE, LA 70809

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NOV 1 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,962,149 :
Issue Date: November 8, 2005 :
Application No. 10/003,877 :
Filed: October 25, 2001 :
Attorney Docket No. 16313/94484-00 :

This is a corrected decision on the petition filed February 15, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee, after the payment of the issue fee, on the front page of the above-identified patent by way of Certificate of Correction. The decision mailed March 31, 2005 is hereby vacated and replaced by the instant decision.

The petition is dismissed.

A request for a certificate of correction (accompanied by the fee set forth in 37 CFR 1.20(a)) must accompany the instant request. *See* 37 CFR 3.81(b).

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

[1] *See* Official Gazette of June 22, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

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

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Paper No. 8

David E. Steuber
SKJERVEN MORRILL
MacPHERSON LLP
Suite 700
25 Metro Drive
San Jose CA 95110-1349

COPY MAILED

NOV 14 2003

OFFICE OF PETITIONS

In re Application of

Entley, et al. :

Application No. 10/003,908

: DECISION ON PETITION

Filed: November 1, 2001

:

Attorney Docket No. M-112021 US

This is a decision on the petition under 37 CFR 1.137(b), filed October 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 26, 2003, which set a shortened statutory period for reply of two (2) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 27, 2003. A Notice of Abandonment was mailed on September 5, 2003.

The amendment filed October 22, 2003, are noted and made of record.

The request for an extension of time filed October 22, 2003, is noted and made of record, however; the request was made outside the maximum statutory period set for reply and cannot be granted. The amount of $950.00 will be refunded, in due course.

The application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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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

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of :
Anthony J. Mauro, et al. :
Application No. 10/003,915 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. 460.2115USU :

This is a decision on the petition, filed October 1, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal or within one (1) month of the Notice of Panel Decision, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). A Notice of Abandonment was mailed on April 3, 2007. In response, on October 1, 2007, 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 Appeal Brief and requisite fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3761.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE

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

#7

MAILED

MAY 09 2002

Office of the Director
Group 3600

Paper No. 7

Baker Botts, L.L.P.
2001 Ross Avenue, Suite 600
Dallas, TX 75201-2980

In re application of
Joseph A. Zupanick, et al.
Application No. 10/003,917
Filed: November 1, 2001
For: METHOD AND SYSTEM FOR SURFACE PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on December 19, 2001 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.

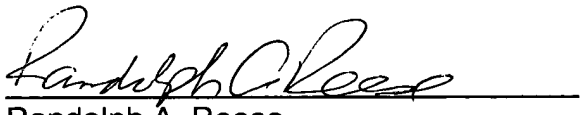
The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

BAKER BOTTS
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

COPY MAILED

JUN 19 2002

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick et al :
Application No. 10/003,917 : NOTICE
Filed: November 1, 2001 :
Attorney Docket No. 067083.0161 :

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 3673.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,917	11/01/2001	Joseph A. Zupanick	067083.0161	7751

26231 7590 11/03/2008

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

EXAMINER	
KRECK, JOHN J	

ART UNIT	PAPER NUMBER
3672	

NOTIFICATION DATE	DELIVERY MODE
11/03/2008	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):

PATDOCTC@fr.com

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Commissioner for Patents
United States Patent and Trademark Office
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MAILED FROM
DIRECTORS OFFICE
OCT 31 2008
TECHNOLOGY CENTER

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of Zupanick et al.
Appl.No.: 10/003,917
Filed: November 1, 2001
For: METHOD AND SYSTEM FOR SURFACE PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed January 18, 2008, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the court documents from the *CNX Gas Corporation vs. CDX Gas, LLC,* Civil Action No. 05-1574, filed January 18, 2008, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

The requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 in 2003 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Frederick Schmidt, Director
Patent Technology Center 3600
(571) 272-5150

FS/db: 10/30/08

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JUN 29 2010

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of ZUPANICK, JOSEPH A.
Appl.No.: 10/003,917
Filed: November 1, 2001
For: METHOD AND SYSTEM FOR SURFACE PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 24, 2009, to expunge information from the above identified application.

The petition is GRANTED.

Petitioner requests that the materials provided by Cliffs Natural Resources, filed November 24, 2009, be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No.

125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to David Bagnell at (571) 272-6999.

Katherine Matecki

Kathy Matecki, Director
Patent Technology Center 3600
(571) 272-5250

KM/db 06/25/10
/TL/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-15-2010

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No: 10003938 Patent No: 7083265

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Eva James
Certificates of Correction Branch
703-756-1583 _____

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 28 2005

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA GA 30361

In re Application of	:
Stauss et al.	:
Serial No.: 10/003,983	: PETITION DECISION
Filed: October 31, 2001	:
Attorney Docket No.: ICI 103	:

This is in response to the petition under 37 CFR § 1.181 and 37 CFR § 1.144, filed October 17, 2005, requesting withdrawal of an improper restriction requirement

BACKGROUND

A review of the file history shows that the application was filed October 31, 2001 under 35 U.S.C. 111(a). The application as filed contained 41 claims. On October 4, 2004 the examiner mailed a restriction requirement dividing the claims into 14 groups. On February 2, 2005 applicants filed a response in which they elected Group I, with a further species election of SEQ ID No: 1 containing peptide bonds. Applicants traversed the restriction requirement, arguing that the claims should have been restricted to no more than 6 groups. On May 23, 2005 the examiner mailed a first Office action on the merits, in which the restriction requirement was made final. However, the requirement for election of species was withdrawn in part. The examiner searched each of SEQ ID Nos: 1-16, including only peptide bonds.

DISCUSSION

Applicants now argue that the claims should be restricted to no more than 4 groups.

First Applicants argue that groups I, II, XIII, drawn to peptides, nucleic acids and a library of peptides, should be examined together. Applicants reason that the peptides and the peptide library are not independent because the peptides are essential to both groups. This argument is not persuasive because the groups are not drawn to the same peptides. Claim 40 (group XIII) is drawn to a library of "peptides of human CD45 polypeptide" and thus is limited to human CD45 and fragments thereof. Claim 1 (group I) includes peptides *comprising* portions of human CD45 (no lower limit to the fragment size) and variants of said portions (no minimum degree of similarity to

native sequence specified). Thus group I clearly includes many peptides which would not be found in the library of group XIII, necessitating different searches. Group XIII also specifies that certain information be recorded for each member of the library, requiring additional search beyond the search for the peptide structures themselves. With regard to the nucleic acids of group II, Applicants cite *Wallach* for the proposition that if an amino acid sequence is known, it is routine to obtain the nucleotide sequence encoding it. This argument is not persuasive because, as pointed out above, claim 1 does not define the complete structure of the claimed peptides. "Given the amino acid sequence, one can determine the chemical structure of all nucleic acid molecules that can serve the function of encoding that sequence. Without that sequence, however, or with only a partial sequence, those structures cannot be determined..." (*Wallach*, p. 1943). Since the peptides of claim 1 are not defined by specific structures, the search required for the nucleic acids of claim 8 (group II) would be burdensome, not straightforward.

Applicants argue that groups III-VII, XII and XIV are connected in operation by the antigen presenting cells and the peptides of group I. This argument is not persuasive. The library of group XII recognizes "CD45 peptides" (not limited to human CD45) and the library of group XIV is loaded with "peptides of human CD45." The products of groups III and VII contain peptides as defined in claim 1 which, as discussed above, include fragments and variants of human CD45, potentially fused with other peptides. The kit of group III would not render the cytotoxic T lymphocytes of group VII obvious and, absent any admission by Applicants to that effect, restriction between these two groups is considered proper. Therefore the various products are patentably distinct. The methods of groups IV-VI can be viewed as either methods of using the product of group III or methods of making the product of group VII. Had either product been elected and found allowable, method claims of equivalent scope could have been rejoined, as stated by the examiner in the restriction requirement.

Applicants propose that groups VIII and IX should be a single group. No reasons are given. It is noted that the proteins of group VIII are claimed in terms of function, not structure, and also include structurally undefined "functional equivalents." As discussed above for groups I and II, the lack of complete structural information for the peptides of group VIII would make it difficult, if not impossible, to search for the nucleotide sequences encoding said peptides. Since the peptides as claimed would not render the nucleic acids obvious, and because it would be a burden to search both inventions, restriction is proper.

Applicants argue that groups X and XI should be combined into a single group because they are connected in operation (treatment with CTLs) and effect (treatment of malignant cells). This argument is not persuasive. First, the CTLs are not defined identically in the two groups of claims so it is not clear whether it is, in fact, the same product administered in the two methods. Second, one invention is a method of killing "target cells," which need not be malignant. Finally, the process steps recited in each method are different, necessitating different searches.

Applicants further argue that it would be "effortless" to search all of the claimed inventions together. This is not found persuasive for the reasons discussed above.

Applicants argue that claim 19 has been placed into 3 groups. It is agreed that claim 19 should have been treated as a linking claim. Since none of the 3 groups including claim 19 were elected, this is a moot point. However, the examiner should make note of this and utilize linking claim practice should the same claims be presented in a continuation or divisional application.

Applicants argue that the election of species requirement is improper. It is not clear to which requirement Applicants refer. Assuming it is the requirement for election of a single peptide within elected group I, the argument is mostly moot since all 16 named species were searched by the examiner. The only remaining division within group I is between peptides which contain non-peptide bonds and those which do not. Applicants hint that these two sub-genera should be considered unpatentable over each other, but stop short of stating such on the record. Absent any evidence or unambiguous statement that one type of peptide would render the other obvious, the election of species is deemed proper. Applicants are reminded that, should the elected subgenus (no non-peptide bonds) be found allowable, the non-elected subgenus will also be considered.

DECISION

Applicants' petition is **DENIED**.

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

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.

George Elliott
Director, Technology Center 1600

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PAUL D. BIANCO
FLEIT GIBBONS GUTMAN
BONGINI & BIANCO PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of :
Bonutti :
Application No. 10/003,996 : DECISION ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No. 780-A02-014-8 :

This is a decision on the petition filed on 18 June, 2010, requesting pursuant to 37 C.F.R §1.182 that the acceptance of the terminal disclaimer filed 31 March, 2003, be withdrawn

NOTE:

Buried, submarined, in one paragraph among approximately 114 pages of Petitioner's papers[1]—is the suggestion that Petitioner not only expressly requests withdrawal of a terminal disclaimer pursuant to 37 C.F.R §1.182, but also seeks outside of the appropriate rule a patent term extension.

Such a practice is inappropriate.[2]

Petitioner may plead appropriately as to withdrawal of the terminal disclaimer, and Petitioner may plead appropriately for relief as to term extension.

And Petitioner shall be express from the outset as to his intents.

The petition pursuant to 37 C.F.R §1.182 is **DISMISSED**.

[1] Petition, page 6.
[2] *See*: 37 C.F.R §1.4(c).

It is noted that, as of this writing, the Examiner(s) in charge of this application has not concurred with the request.

The guidance in the Commentary at MPP §1490 provides in pertinent part:

***

VII.WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

***

Moreover, \Petitioner's discussion makes clears that Petitioner expressly determined as to prosecution strategy to submit the terminal disclaimer notwithstanding Petitioner's own beliefs that the disclaimer was unnecessary.[3]

At this writing, the history of conflict as to Petitioner's representations/intentions herein and the Examiner's lack of concurrence make the withdrawal of the 31 March, 2003, TD inappropriate.

[3] Petition, page 4, third paragraph.

Accordingly, the petition is **dismissed**.

This application is released to the Technology Center/AU 3733 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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./
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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Jones Day (RIM) - 2N
North Point
901 Lakeside Avenue
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Wen Zhao	: DECISION ON REQUEST FOR
Patent Number	: 7634080	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/004,001	: 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 **1038** 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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BUCKLEY MASCHOFF & TALWALKAR LLC
FIVE ELM ST
NEW CANAAN CT 06840

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Eric Li	:	
Application No. 11/004,004	:	ON PETITION
Filed: December 3, 2004	:	
Attorney Docket No. P19311	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.10(d)", filed January 28, 2005, to accord the above application a filing date of December 3, 2004.

The petition is **GRANTED**.

With the instant petition, petitioner argues that the above identified application was filed on December 3, 2004, not December 2, 2004.

37 C.F.R. §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.

The instant petition satisfies the requirements of 37 C.F.R. §1.10(d). Petitioner has supplied a copy of a log book, with a log entry time of 5:19 on December 3, 2004, showing that the instant application bearing Express Mail Label No. EL963889199US was deposited on December 3, 2004 at 4:42. Furthermore, a review of the US Postal Service's website reveals that Express Mail Label No. EL963889199US was accepted by the USPS on December 3, 2004.

In view of the above, the application is entitled to a filing date of December 3, 2004.

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

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **December 3, 2004, not December 2, 2004.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAY 20 2004

Paper No. 9

In re Application of
Kenneth A. Perrie *et al*
Application No. 10/004,017
Filed: October 18, 2001
Attorney Docket No. 1482/187(d)

: DECISION ON PETITION

This is a decision on the petition filed on April 7, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 26, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that a timely and proper reply to the Office letter was in fact filed on November 26, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply. The filing receipt shows that the reply was actually received in the Office on November 26, 2003, a date within the period for filing a reply to the Office letter in question. This evidence clearly establishes that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory applications Examiner for entry of the reply filed on November 26, 2003, and thereafter will be forwarded to the examiner for action on the reply.

E. Rollins-Cross, Director
Technology Center 3700

Dorr Carson Sloan & Birney, PC
3010 East 6th Avenue
Denver, CO 80206

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

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JAN 2 7 2005

Technology Center 2100

In re Application of:
ENG-WHATT TOH
Application No. 10/004,019
Filed: October 18, 2001
For: SECURE AND RELIABLE DOCUMENT DELIVERY USING ROUTING LISTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 16, 2004.

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

The request is **GRANTED**.

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

for 1/19/05

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and

cc: Robert N. Blackman
Merek, Blackmore & Voorhees, LLC
673 S. Washington St.
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6752809
Issue Date: June 22,2004
Application No. 10004043
Filed: December 4,2001
Attorney Docket No. 809-66004

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

This is a decision on the electronic petition, filed August 8,2008 ,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 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,752,809	2004-06-22	10/004,043	2001-12-04	809.00401

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/PERRY E. VANOVER/	Date (YYYY-MM-DD)	2008-08-08
Name	Perry E. Van Over	Registration Number	42197

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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1000 WEST MAUDE AVENUE
SUNNYVALE, CA 94085

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APR 09 2007

OFFICE OF PETITIONS

In re Application of :
Frederik Ekkel :
Application No. 10/004,049 :
Filed: November 2, 2001 :
Attorney Docket No. US018177 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 24, 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 December 25, 2004.

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

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

This matter is being referred to Technology Center AU 2174 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Yan Glickberg
Philips Electronics North America Corporation
345 Scarborough Rd.
Briarcliff Manor, NY 10510

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WILLIAM O'DRISCOLL – 12-1
THE TRANE COMPANY
3600 PAMMEL CREEK ROAD
LA CROSSE, WI 54601

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OFFICE OF PETITIONS

In re Application of :
Thomas G. Krajewski et al :
Application No. 10/004,054 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. D-2778/WOD :

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2006, 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 January 23, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 24, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1590 extension of time submitted with the petition on August 8, 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

#4

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 30 2003

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

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JUN 30 2003

OFFICE OF THE DIRECTOR
TC 3600

Carr & Ferrell LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

In re application of
John Mc Caskill
Application No. 10/004,070 : DECISION ON REQUEST
Filed: October 25, 2001 : FOR WITHDRAWAL OF
For: AUTOMATIC CAMERA TRACKING : ATTORNEY
USING BEAMFORMING

This is a decision on the request filed on March 27, 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), there is no indication in the file record of the assignee being the "client." Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0868

SNM/dxn: 6/24/03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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PAPER NO.

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AUG 14 2003

OFFICE OF PETITIONS

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

In re Application of
John McCaskill
Application No. 10/004,070
Filed: October 25, 2001
Attorney Docket No. PA1455US

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 12, 2003, to withdraw the above-identified application from issue. The petition includes a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS).

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Terril G. Lewis appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Lewis 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. Lewis, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is DISMISSED AS MOOT.

Since the RCE was filed within the period set for paying the issue fee as required by the Notice of Allowance and Issue Fee Due mailed July 16, 2003, prosecution is reopened in the present application and no petition under 37 CFR 1.313 is necessary. Accordingly, the $130 petition fee is being refunded to counsel's Deposit Account No. 50-1922.

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 returned to Technology Center AU 3662 for 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

cc:

TERRIL G. LEWIS
WONG CABELLO, LLP
20333 SH 249, SUITE 600
HOUSTON, TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

LAW OFFICES OF THOMAS E. SCHATZEL
A Professional Corporation
Suite 240
16400 Lark Avenue
Los Gatos CA 95032-2547

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SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of:
Kiremidjian, *at al.*
Application No. 10/004,078
Filed: November 27, 2001
Attorney Docket No. SS-709-12

DECISION GRANTING PETITION

This is a decision on the March 18, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 27, 2001, rather than the presently accorded filing date of October 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 27, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EM379061832US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 27, 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 27, 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
WASHINGTON, D.C. 20231
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Paper No. 5

LAW OFFICES OF THOMAS E. SCHATZEL
A Professional Corporation
Suite 240
16400 Lark Avenue
Los Gatos CA 95032-2547

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SEP 0 4 2002

OFFICE OF PETITIONS

In re Application of:
Kiremidjian, *et al.*
Application No. 10/004,080
Filed: November 27, 2001
Attorney Docket No. SS-709-10

DECISION GRANTING PETITION

This is a decision on the March 18, 2001 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of November 27, 2001 rather than October 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 27, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EM379061832US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 27, 2001.

It is noted that although the filing receipt included with the petition shows a filing date of October 27, 2001, USPTO records reflect that the filing date is November 27, 2001. Accordingly, the effect of this decision is instruct OIPE to issue a corrected filing receipt that reflects the proper filing date of November 27, 2001.

In view of the above, *this petition is* ***granted***.

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

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)
6702733	2004-03-09	10004091	2001-10-23	Larginine

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald N. Halgren/	Date (YYYY-MM-DD)	2008-04-23
Name	Donald N. Halgren	Registration Number	27056

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6702733
Issue Date: March 9,2004
Application No. 10004091
Filed: October 23,2001
Attorney Docket No. 13511-002001

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

This is a decision on the electronic petition, filed April 24,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 24,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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FEB 22 2005

OFFICE OF PETITIONS

In re Application :
Asako, et al. :
Application No. 10/004,115 : PATENT TERM ADJUSTMENT
Filed: December 6, 2001 :
Dkt. No.: 7372-72249 :

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §154(b)," filed September 29, 2004.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is **GRANTED**.

The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 162 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 15 days, as indicated on the Determination of Patent Term Adjustment mailed July 22, 2004, to 162 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 169 days can be attributed to the Office. The adjustment began February 7, 2003, the day after the date that is fourteen months from the date the application was filed, and ended July 25, 2003, the date the Restriction Requirement was mailed. There were no further delays attributed to the Office.

The Office errantly entered November 15, 2002 as the date a proper response to the Notice mailed March 21, 2002 was received when in fact, the November 15th 2002 submission was a timely response to a Notice mailed August 23, 2002. Accordingly, the reduction of 147 days is in error and has been restored.

The adjustment of 169 days, however, was properly reduced seven days in connection with the supplemental response submitted February 13, 2004. A non-final Office action was mailed November 19, 2003. A response was timely submitted February 6, 2004, however, a supplemental response was submitted February 13, 2004.

In accordance with 37 CFR 1.704(c)(8), any adjustment under 37 CFR 1.703 shall be reduced as a result of the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed. The period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. Thus, the delay began February 6, 2004, the date the response to the non-final Office action was filed, and ended February 13, 2004, the date the supplemental response was filed.

In view thereof, at the time of Notice of Allowance the application is entitled to a patent term adjustment of 162 days.

The required fee of $200.00 for an application for patent term adjustment has been charged to Deposit Account No. 06-1135 as authorized in the instant application for PTA.

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

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

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

Enclosure: Copy of Adjustment PAIR Calculation

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Paper No. 10

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 0 8 2004

OFFICE OF PETITIONS

In re Application of :
Matsunami et al. :
Application No. 10/004,131 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. 16869P-036100US :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 12, 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 November 6, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 7, 2004.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on May 12, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO Box 1450
Arlington, VA 22313-1450
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Paper No. 21

Cooley Godward LLP
Attn: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656

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SEP 2 6 2003

OFFICE OF PETITIONS

In re Application of :
Louis B. Rosenberg et al. :
Application No. 10/004,170 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. IMM1P027B :

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 in reply to the final Office action mailed January 22, 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 April 22, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The patent file is being forwarded to Technology Center AU 2672 for processing the Request for Continued Examination filed with the instant petition.

Latrice Bond

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Testa, Hurwitz & Thibeault, LLP
High Street Tower
125 High Street
Boston, MA 02110

MAILED

MAR 2 3 2004

Technology Center 2100

In re Application of:
David C. MITHCHELL, et al.
Application No. 10/004,199
Filed: November 2, 2001
For: METHODS AND APPARATUS FOR EFFICIENTLY TRANSMITTING INTERACTIVE APPLICATION DATA BETWEEN A CLIENT AND SERVER USING MARKUP LANGUAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed February 27, 2004.

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

The request is **GRANTED.**

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

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

cc: John D. Lanza, Esq.
Lahive & Cockfield, LLP
28 State Street, 24th Floor
Boston, MA 02109-1784

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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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS ST.
CHICATO IL 60606

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Rumo Satake :
Application No. 10/004,245 :
Filed: November 1, 2001 :
Attorney Docket No. SEL 285 :

ON PETITION

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

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES 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 : January 28, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/004,245

Applicant(s) :Rumo Satake
Application No. :10/004,245
Filed :November 1, 2001

The above-identified application has been assigned Patent No. 6,850,306 and an issue date of February 1 , 2005.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 1, 2005:

> "All reference to Patent No. 6,850,306 to Rumo Satake of Japan for LIQUID CRYSTAL DISPLAY DEVICE HAVING PARTICULAR CONFIGURATION OF PIXEL ELECTRODES appearing in the Official Gazette of February 1, 2005 should be deleted since no patent was granted."

Karen Creasy

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

cc: Paul Harrison, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara Greene, Crystal Park 3-908

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS ST.
CHICAGO IL 60606

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
Rumo Satake :
Application No. 10/004,245 : ON PETITION
Filed: November 1, 2001 :
Attorney Docket No. SEL 285 :

This is a decision on the petition, filed May 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 27, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Clyde R. Wallace, Jr
5241 Savoy Court
Cape Coral FL 33904

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JAN 16 2009

In re Patent No. 6,920,560 :
Issued : July 19, 2005 :
Application No. 10/004,265 : ON PETITION
Filed: October 31, 2001 :
Attorney Docket No. WALPT01C1

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on December 10, 2008.

The petition is **DISMISSED AS MOOT**.

The record reflects that a Notice of Allowance and Issue Fee Due was mailed September 14, 2004, requiring payment of the issue fee in the amount of $665.00 and payment of the publication fee in the amount of $300.00. The Notice allowed a statutory period for reply of three months from its mailing date. On December 14, 2004, petitioner paid the amount set forth in the Notice. On June 14, 2005, a Notice to Pay Balance of Issue Fee was mailed indicating that the amount of the issue fee increased on October 1, 2005, to $700.00 and allowed petitioner a three month period in which to file the deficient amount. Petitioner did not pay this amount. Notwithstanding, the application matured into the subject patent on 6,920,560. Petitioner now files the instant petition requesting withdrawal of the abandonment of the application based on non-receipt of the Notice to Pay Balance of Issue Fee and remits additional monies for payment of the issue fee for the application.

A review of the application file history reveals that a request to change the correspondence address for the application was filed on December 14, 2004—prior to the mailing of the Notice to Pay Balance of Issue Fee. A review of the application file history reveals that an error was made by the Office in entering the new address in Office records; the Notice to Pay Balance of Issue Fee was returned as undeliverable, accordingly. It is evident that petitioner did not respond to the Notice to Pay Balance of Issue Fee because it was not received. The petition must be dismissed as moot, however, because the application has already issued into a patent, notwithstanding the inadvertent failure of the petitioner to pay the full amount due for the issue fee. The monies remitted for the issue fee on December 10, 2008, are accepted. No further consideration of this matter is necessary.

The address of record for this patent has been corrected in Office records.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

- UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

MAY 25 2005

STRADLING YOCCA CARLSON &
RAUTH, IP Department
660 Newport Center Drive
P.O. Box 7680
Newport Beach, CA 92660-6441

In re application of
Brent McKay :
Application No. 10/004,281 : **DECISION ON REQUEST**
Filed: October 31, 2001 : **FOR WITHDRAWAL OF**
For: INTERACTIVE MEDIA MANAGEMENT SYSTEM : **ATTORNEY**
AND METHOD FOR NETWORK APPLICATIONS

This is a decision on the request filed on May 09, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED 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 attorney making the request; Monique M. Heyninck, does not now have, and apparently never has had, power of attorney in this application. There is no record of power of attorney ever being given to the attorney making the request.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 05/23/05

OIPE JC172
JUN 16 2005
PATENT & TRADEMARK OFFICE

6-20-05

TM 3622

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/004,281
Filing Date	October 31, 2001
First Named Inventor	Brent McKay
Art Unit	3622
Examiner Name	Lastra, Daniel
Attorney Docket Number	12275.0013

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

APPROVED
SEP 19 2005

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number [ ]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Applicant's conduct renders it unreasonably difficult for the undersigned and his law firm to carry out the employment effectively.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: [ ]

OR

☒ Firm or Individual Name	Brent McKay, c/o eMine Technology, Inc.				
Address	3901 Westerly Place, Suite 110				
City	Newport Beach	State	CA	Zip	92660
Country	USA				
Telephone			Fax		
Signature					
Name	Jan P. Weir		Registration No.		43,253
Date	6/16/05		Telephone No.		949-725-4000

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

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

American LegalNet, Inc.
www.USCourtForms.com

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SAN FRANCISCO, CA 94111-3834

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Michelle F. Browner et al :
Application No. 10/004,287 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket No. 018781-005710US :

This is a decision on the petition, filed January 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition, filed January 24, 2005, under 37 CFR 1.78(a)(6), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/243,581, filed October 26, 2000, as set forth in the amendments filed January 14, 2005 and supplemented on April 25, 2005 and in the Application Data Sheet (ADS) filed August 11, 2003.

The petition under 37 CFR 1.313(c)(2) is **DISMISSED** as moot.

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

Discussion of Petition under 37 CFR 1.313(c)(2)

Unfortunately, the instant petition was not received within sufficient time to avert issuance of the above-identified application into a patent. In this regard, the petition did not reach the deciding official's office until after issuance of the instant application into a patent.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section 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**.

Since a petition to withdraw the instant application from issue was not granted prior to issuance of the instant application into a patent, the request for continued examination (RCE) filed concurrently with the instant petition is improper and no fee has been charged.

Discussion of Petition under 37 CFR 1.78(a)(6)

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/243,581, which was filed on October 26, 2000, for which priority is claimed.

The reference was made prior to issuance of the application into a patent; i.e., on August 11, 2003 in an ADS and on January 24, 2005. While the amendment received on January 24, 2005 included an improper incorporation by reference statement, the ADS received on August 11, 2003 was a proper reference to the prior-filed application, albeit an untimely reference. Further, as a result of the corrected claim for priority, a corrected Filing Receipt was issued on August 29, 2003. Therefore, the reference under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) to the prior-filed provisional application is considered to have been made prior to the issuance of the instant application into a patent.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

After this decision is mailed, deposit account No. 20-1430 will be charged $130.00 for the petition under 37 CFR 1.313(c)(2) and $1,370.00 for the petition under 37 CFR 1.78(a)(6).

Any inquires concerning this decision may be directed to Wan Laymon at (571) 272-3220.

As this case has issued, and as the reference to the prior-filed application was properly made prior to issuance, it would be appropriate for issuance of a certificate of correction. Accordingly, in order to reflect the correct priority data on the front page of the Letters Patent, petitioner **must** submit a certificate of correction and pay the required fee of $100.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Richard C. Litman
LITMAN LAW OFFICES, LTD.
P.O. Box 15035
Arlington, VA 22215

COPY MAILED

SEP 1 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Bass et al.	:	
Application No. 10/004,295	:	DECISION GRANTING
Filed: December 6, 2001	:	PETITION
Attorney Docket No. 19421.00	:	

This is a decision on the petition filed April 8, 2002, to establish that Figure 17D was part of the originally filed application.

On December 6, 2001, the application was filed.

On February 13, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)" stating that the application had been accorded a filing date of December 6, 2001, and advising applicants that Figure 17D described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 17D was deposited on December 6, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Dwg. 98 sheets & 98 Figs." on December 6, 2001.[1] Petitioner has also submitted a copy of the missing documentation- Figure 17D.

Upon review of the record, Figure 17D, deposited on December 6, 2001, has not been located. However, the evidence is convincing that the application papers deposited on December 6, 2001, included Figure 17D, and that Figure 17D was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of Figure 17D submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed February 13, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 6, 2001, using the application papers filed on December 6, 2001, and the copy of Figure 17D filed on April 8, 2002.

---

[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.

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, D.C. 20231
WWW.USPTO.GOV

Mailed:

MCK

Paper No. 8

In re application of	:	
Moon, J.E. et al.	:	
Serial No. 10/004,299	:	DECISION ON
Filed: November 02,2001	:	PETITION
For: METHOD FOR FABRICATING LC DEVICE USING LATENT MASKING AND DELAYED LOCOS TECHNIQUES	:	

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**.

Marian C Knode

Marian C. Knode
Special Program Examiner
Technology Center 1700

Christopher R. Pastel
WALL MARJAMA & BILINSKI, LLP
Suite 400
101 South Salina Street
Syracuse, NY 13202

UNITED STATES 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.

Richard A. Dunning Jr.
LAW OFFICE OF RICHARD A DUNNING JR.
343 Soquel Avenue
Suite 311
Santa Cruz, CA 95062

MAILED

DEC 0 6 2004

Technology Center 2100

In re Application of:
Frey
Application No. 10/004,301
Filed: November 2, 2001
For: DELEGATED AUTHENTICATION USING A GENERIC APPLICATIOIN-LAYER NETWORK PROTOCOL

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed November 3, 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 November 3, 2004 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: GRAY CARY WARE & FREIDENRICH
153 Townsend Street, Suite 800
San Francisco, CA 94107-2501

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. 21

FISH & RICHARDSON
5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS TX 75201

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JUN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick :
Application No. 10/004,316 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket No. 067083.0162 :

This is a decision on the petition, filed June 28, 2004, 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 30, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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PO BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application	:	
Joseph A. Zupanick	:	
Application No. 10/004,316	:	DECISION ON APPLICATION
Filed: October 30, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 067803.0162	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(B)", filed August 18, 2005. Applicant request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eighty-four (84) days to two hundred thirteen (213) days.

The application for patent term adjustment is **DISMISSED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 18, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is eighty-four (84) days. On August 18, 2005, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred thirteen (213) days.

[1] Applicants filed the instant application for patent term adjustment together with the payment of the issue fee.

Applicant fails to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eighty-four (84) days based on an adjustment for PTO delay of eighty-four (84) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay.

Applicant argues that the PTO should have been assessed additional delay of one hundred twenty-nine (129) days pursuant to 37 C.F.R. § 1.703(a)(3). Applicant filed an RCE on September 9, 2004. However, the Office did not mail an action in response to the RCE until May 18, 2005. Accordingly, the Office should have been assessed PTO delay of one hundred twenty-nine (129) days.

However, a review of the application file reveals that applicant should have been assessed additional delay of one hundred ninety-six (196) days, pursuant to 37 C.F.R. § 1.704(c)(8), for the filing of an IDS on March 24, 2005. As stated above, applicant filed an RCE on September 9, 2004. On March 24, 2005, applicant filed an IDS. The IDS did not contain the statement required by 37 CFR 1.704(d). Accordingly, applicant should have been assessed delay of one hundred ninety-six (196) days.

Moreover, the applicant should have been assessed additional delay for filing a petition to withdraw from issue. The issue fee was originally paid on December 30, 2003. Applicant filed a petition to withdraw from issue on June 28, 2004. Accordingly, pursuant to 37 C.F.R. § 1.704(c), applicants should have been assessed delay of one hundred eighty-one (181) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (213 (84+129) days of PTO delay, reduced by 377 (181+196) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application file is being forwarded to the Office of Patent Publication for processing into a patent. Any delays in not issuing the patent under 37 C.F.R. 1.704(a)(4) or 1.704(b) will be reflected in the issue notification letter that is mailed to applicant approximately three weeks prior to the issue date.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

/Kery Fries/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6726715
Issue Date: April 27,2004
Application No. 10004317
Filed: October 23,2001
Attorney Docket No. SUTH-101

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

This is a decision on the electronic petition, filed June 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6726715	2004-04-27	10/004,317	2001-10-23	701039-062540-US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David S. Resnick/	Date (YYYY-MM-DD)	2008-06-17
Name	David S. Resnick	Registration Number	34235

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 7

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

COPY MAILED
MAY 28 2004
OFFICE OF PETITIONS

In re Application of :
McLintock et al. :
Application No. 10/004,340 : ON PETITION
Filed: October 25, 2001 :
Attorney Docket No. 34118 :

This is a decision on the petition under 37 CFR 1.182, filed May 10, 2004, to correct the name of the second named inventor.

The petition is **granted**.

The name of the second inventor will be corrected from Michael D. Caughey to **D. Michael Caughey**. The Office records have been corrected to reflect the change of the second inventor's name as noted above.

The file is being forwarded to the Assignment Branch for a change in the assignment records.

The $130.00 petition fee has been charged to Deposit Account No. 16-0820, as authorized.

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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#8

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,346	11/01/2001	Robert N. Cossins	396451	3708

7590 04/07/2004

LATHROP & GAGE, L.C.
2345 Grand Boulevard, Suite 2800
Kansas City, MO 64108

EXAMINER	
RAMOS FELICIANO, ELISEO	
ART UNIT	**PAPER NUMBER**
2681	

DATE MAILED: 04/07/2004

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

James M. STIPEK
LATHROP & GAGE, L.C.
2345 Grand Boulevard, Suite 2800
Kansas City, Missouri 64108

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Robert N. COSSINS et al
Application No. 10/004,346
filed: November 1, 2001
Attorney Docket No.396451

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed March 3, 2004, which is being treated as a petition under 37 CFR1.137(b) to revive the above-identified application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

The petition to revive the above-identified application is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. The filing date of the subsequently filed foreign or international application is: October 30, 2002. However, the USPTO was unintentionally not notified of these filings 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© for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational 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. Sect. 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. Sect. 122 (b) (2) (B) (I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the

projected publication date will not be mailed inasmuch as the instant application was published on May 1, 2003.

There is no indication that a reply to the Office action of November 10, 2003 has been filed. Accordingly, a shortened statutory period of three (3) months for reply to the Office action of November 10, 2003 is restarted with the mailing date of this decision. Extensions of time pursuant to the provisions of 37 CFR 1.136(a) are permitted. Failure to timely reply within the period restarted by this decision will result in the abandonment of this application.

This application is being forwarded to Technology Center Art Unit 2681 to await a reply to the Office action, the period of which is restarted to run from the mailing of this decision on petition as noted above.

Inquiries regarding this communication may be directed to Samuel A. Acquah at (703) 605-5229 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
www.uspto.gov

POLSINELLI SHALTON
FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

COPY MAILED

MAY 27 2008

In re Application of
Cossins, et al.
Application No. 10/004,346
Filed: 1 November, 2001
Attorney Docket No. 108402

DECISION

This is a decision on the petition, filed 23 April, 2008 (supplemented thereafter on or about 23 May, 2008), considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and in the alternative to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

As to the Request to Withdraw the Holding of Abandonment

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

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed on 28 November, 2007, with a reply due under a non-extendable deadline on or before 28 February, 2008.

The application went abandoned after midnight 28 February, 2008.

The Office mailed the Notice of Abandonment on 24 March, 2008.

On 23 April, 2008, Petitioner filed two petitions (supplemented thereafter on or about 23 May, 2008), one requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181 averring non-receipt supported with copies of the application docket sheet and the due-date docket records, along with the averment by Petitioner that the papers were not found after proper search and as to the nature and process of the docketing system, all in compliance with the guidance set forth in the Commentary at MPEP §711.03(c)(I)(A) and (B)— and, in the alternative Petitioner filed the petition under 37 C.F.R. §1.137(b), authorized the fee, with the fees due as the required reply and made the statement of unintentional delay.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

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

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

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

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

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

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

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

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

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

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

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

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

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

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

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

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

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.[3] (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 to have satisfied the showing requirements as discussed hereinabove.

Allegations as to Abandonment
Due to Unintentional Delay

As indicated earlier, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the

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37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

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

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

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

regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.).

The petition now is moot.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 24 March, 2008, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant application is released to Technology Center/AU 2617 for further processing—to include the re-mailing of the Notice of Allowance/Allowability and Fees Due—in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

27148 7590 11/28/2007

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

EXAMINER	
CASCA, FRED A	
ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 11/28/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,346	11/01/2001	Robert N. Cossins	108402	3708

TITLE OF INVENTION: GEOGRAPHIC MANAGEMENT SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$720	$300	$0	$1020	02/28/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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)

27148 7590 11/28/2007

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

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.
10/004,346	11/01/2001	Robert N. Cossins	108402	3708

TITLE OF INVENTION: GEOGRAPHIC MANAGEMENT SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$720	$300	$0	$1020	02/28/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
CASCA, FRED A	2617	455-446000

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

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

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

2. For printing on the patent front page, list

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

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

1 _____

2 _____

3 _____

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

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

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

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

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

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

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

☐ A check is enclosed.

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

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

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

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

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

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,346	11/01/2001	Robert N. Cossins	108402	3708

27148 7590 11/28/2007

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

EXAMINER	
CASCA, FRED A	
ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 11/28/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 626 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 626 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/004,346	COSSINS ET AL.	
	Examiner	Art Unit	
	Fred A. Casca	2617	

-- 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 *August 21, 2007*.

2. ☒ The allowed claim(s) is/are *1-32 and 49 (renumbered as 33)*.

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

   * Certified copies not received: _____.

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

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

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

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

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

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date 8/21/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid. Applicant's submission filed August 21st, 2007 has been entered.

Allowable Subject Matter

2. Claims 1-32 and 49 (renumbered as 33) are allowed. The following is an examiner's statement of reasons for allowance:

Independent claims 1 and 5 are narrower in scope than the previously allowed claim 11 of US Patent No. 6,343,290 B1. Absent any prior art to the contrary, claims 1 and 5 are therefore allowable. Independent claim 19 is a method corresponding to the system of claim 1, therefore claim 19 is allowable. Independent claim 49 is narrower in scope than the previously allowed claim 99 of US Patent No. 6,343,290 B1. Absent any prior art to the contrary, claim 49 is therefore allowable.

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

Conclusion

3. Any response to this Office Action should be mailed to:

U.S Patent and Trademark Office
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or Faxed to:

571-273-8300.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid, can be reached at (571) 272-7922.

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).

LESTER G. KINCAID
SUPERVISORY PRIMARY EXAMINER

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

TODD R. TUCKER
RENNER, OTTO, BOISSELLE, & SKLAR, L.L.P.
1621 EUCLID AVENUE, 19TH FLOOR
CLEVELAND, OH 44115

COPY MAILED

JUL 0 3 2002

OFFICE OF PETITIONS

In re Application of :
James Lynn Baratuci et al. :
Application No. 10/004,365 : DECISION REFUSING STATUS
Filed: November 10, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TRUSP0105USA :

This is in response to the petition under 37 CFR 1.47(a)[1] filed on March 8, 2002.

The petition is **DISMISSED**.

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

The above-identified application was filed on November 10, 2001, with a declaration naming James Lynn Baratuci, Patrick Anthony Drda, Steven Michael Milano and Theo J. Van de Pol and signed by all inventors except joint inventor Theo J. Van de Pol. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" requiring an executed oath or declaration, and a surcharge for the late filing was mailed December 28, 2001.

In support of the petition, joint inventor Baratuci declares that the nonsigning inventor refuses to sign the declaration for the application.

The petition lacks items (1) and (4).

---

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

In regards to item (1), the petition does not present a sufficient showing of proof that a copy of the application papers were sent or given to the non-signing inventor for review.[2] The declaration of joint inventor James J. Baratuci indicates that on November 8, 2000, he sent a copy of the patent application to Mr. van de Pol via FEDEX and that Mr. van de Pol refused to execute the Combined Declaration and Power of Attorney. Mr. Baratuci claims that between the winter of 2000 and the spring of 2001, several telephone conversations ensued between he and Mr. van de Pol and again in August 2001, he sent the application papers to Mr. van de Pol and that it was on those occasions and during that time that Mr. van de Pol continued to refuse to execute the documents, based on advice of counsel.

Petitioners must show proof however that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the nonsigning inventor for review. Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or further details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Additionally, petitioners must show proof that the non-signing inventors refuse to sign the declaration after being sent or given a copy of the application papers (specification, including claims, drawings, if any, and the declaration).[3] Petitioner should indicate the manner in which the refusal was conveyed. Was it in writing or was it a verbal refusal. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide further details of the refusal in an affidavit or declaration of facts.

In regards to item (4), Petitioner has not provided the USPTO with the last known address of Mr. van de Pol.

The petition in this matter indicates that the Combined Declaration and Power of Attorney is executed by the joint inventor on behalf of the omitted inventor who refuses to sign. It should be noted that the Declaration is signed only by joint inventors Baratuci, Drda and Milano on their own behalf. In this regard, petitioners should note that the declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank, or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor. A declaration is not acceptable if there are two or more signing inventors and only one of the signing inventors signed on behalf of the non-signing inventor. The Combined Declaration and Power of Attorney is in compliance with 37 CFR 1.63 and 1.64 as required, however, as indicated above, the petition does not comply with 37 CFR 1.47(a)(1) and (4).

---

[2] MPEP 409.03(e).

[3] Id.

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 Petitions Attorney at 703-305-4497

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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MAR 2 7 2003

OFFICE OF PETITIONS

Todd R. Tucker
Renner, Otto, Boisselle, & Sklar, L.L.P.
1621 Euclid Avenue, 19th Floor
Cleveland OH 44115

In re Application of
Baratuci, Drda, Milano, and Van DePol
Application No. 10/004,365
Filed: November 1, 2001
Attorney Docket No. TRUSP0105USA
For: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a) AND DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.47(a), March 25, 2003.

This is also a decision on the petition under 37 CFR 1.137(b), also filed March 25, 2003.

The petition under 37 CFR 1.137(b) is **GRANTED**

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

Consideration under 37 CFR 1.47(a):

Petitioner has shown that the non-signing inventor, Theo Van De Pol, has constructively refused to join in the filing of the above-identified application after having been presented with the complete 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.

Consideration under 37 CFR 1.137(b):

This application became abandoned on September 4, 2002, for failure to timely file an appropriate response to the decision mailed June 3, 2002, dismissing the petition under 37 CFR 1.47(a) filed March 8, 2002. The dismissal decision set a period for reply of two months from its mailing date and advised that extension of time were available. No extension of the time for the reply was obtained; the application became abandoned on September 4, 2002. A Notice of Abandonment was mailed on March 17, 2003.

As the requirements of 37 CFR 1.137(b) have been met, the above-cited application is, hereby, revived.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theo J. van de Pol
Eperweg 34
8181 EW HEERDE
The Netherlands

AIRMAIL

COPY MAILED

MAR 2 7 2003

OFFICE OF PETITIONS

In re Application of
Baratuci, Drda, Milano, and van de Pol
Application No. 10/004,365
Filed: November 1, 2001
Attorney Docket Number: TRUSP0105USA
For: RIBBED TUBE CONTINUOUS FLEXIBLE SPACER ASSEMBLY

LETTER

Dear Mr. van de Pol:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (703) 305-0010. 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).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Todd R. Tucker
Renner, Otto, Boisselle, & Sklar, L.L.P.
1621 Euclid Avenue, 19th Floor
Cleveland OH 44115

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/13/06

Paper No.: —

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/004370 Patent No.: 7027489 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**.

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.

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

Comments: _____

_____

_____

_____

_____

SPE

2611

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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SEP 22 2005

OFFICE OF PETITIONS

In re Patent No. 6,841,359	:	DECISION ON
Szostak et al.	:	REQUEST FOR RECONSIDERATION
Issue Date: January 11, 2005	:	OF
Application No. 10/004,381	:	PATENT TERM ADJUSTMENT
Filed: October 31, 2001	:	and
Attorney Docket No. 00786/388002	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION
	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed March 10, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from sixty-seven (67) days to two hundred twenty-nine (229) days.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred twenty-two (122) days.

On January 11, 2005, the above-identified application matured into U.S. Patent No. 6,841,359, with a revised patent term adjustment of 67 days. On March 10, 2005, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct

number of days of Patent Term Adjustment is 229 days. Patentees dispute the reduction of 90 days for the filing of an Information Disclosure Statement after the mailing of the notice of allowance and the reductions of 55 and 17 days for papers filed November 1, 2004, including a request to initialize and return form PTO-1449 and a copy of the IDS previously filed.

Patentees' arguments and evidence have been considered, but not found entirely persuasive. The IDS filed August 3, 2004, was filed after the mailing of the notice of allowance on July 28, 2004. Moreover, the IDS did not include, as maintained by patentees, a § 1.704(d) statement.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004, as follows:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Thus, it is concluded that the filing of the IDS after the mailing of the notice of allowance properly caused a reduction of the PTA. Moreover, the period of reduction is 107 days, counting the number of days beginning on the date of filing of the IDS, August 3, 2004, and ending on the date of mailing of a response by the Office, November 17, 2004.

The reductions associated with applicants filing of papers on November 1, 2004 have been considered. A review of the record reveals that on that date applicants made a Request for an Initialed IDS, supplying a copy of the IDS filed August 3, 2004 with the request; declared their Large Entity Status; and paid the Issue Fee. It is undisputed that a period of reduction of 4 days was properly entered for payment of the Issue Fee on that date.

Under the circumstances the filing on November 1, 2004 of the IDS along with a letter requesting return of an initialed IDS should not be considered "a failure to engage in reasonable efforts" to conclude processing or examination of an application and should not result in reduction of the patent term adjustment pursuant to 37 CFR 1.704(c)(10). The Communication filed November 1, 2004, requesting the IDS be initialed was the first opportunity by applicants to address the matter. The IDS itself was not filed until after the mailing of the notice of allowance. Thus, the reduction of 17 days associated with the filing of this paper is not warranted.

The other paper filed November 1, 2004, was a statement of loss of entitlement to small entity status. 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 either a response to the examiner's reasons for allowance, a change of address, or a loss of entitlement to small entity status, 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 supports a conclusion that the reduction of 55 days was based on the filing of such a paper after allowance. Thus, it is concluded that the reduction of 55 days is incorrect.

In view thereof, the patent should have issued with a patent term adjustment of 122 days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED TWENTY-TWO (122)** days.

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

Kery Fries

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

GIBSON, DUNN & CRUTCHER, LLP
SUITE 4100
1801 CALIFORNIA STREET
DENVER CO 80202

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MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of
Strickholm, et al
Application No. 10/004,384
Filed: October 31, 2001
Attorney Docket No. 50449-00002

: DECISION GRANTING
: PETITION

This is a decision on the petition filed December 20, 2001 to accord a filing date of October 31, 2001 to the above identified application, rather than the presently accorded filing date of December 6, 2001.

Petitioners request an October 31, 2001 filing date on the basis that the application was deposited in Express Mail Post Office to Addressee service on October 31, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by, *inter alia*, a statement by Jean A. Burns, the legal assistant who deposited the application in Express Mail service. Ms. Burns states that she placed the application in an Express Mail envelope bearing the mailing label of EF397474852US and deposited it in an Express Mail drop box on October 31, 2001. The same Express Mail mailing label number is found on the transmittal letter of the original application papers found in the application file.

While petitioners have not submitted their Express Mail label (purportedly because it was not returned from the USPS), a review of the USPS Shipping Center Track and Confirm website indicates that the package bearing the mailing label number of EF397474852US was present at the Denver, CO processing center on October 31, 2001.

This information, considered in conjunction with the declaration of Ms. Burns and the fact that the original application papers contain the Express Mail mailing label number EF397474852US affixed thereto, establishes to the satisfaction of the Commissioner that the application was deposited in Express Mail on October 31, 2001 prior to the last scheduled pickup.

Accordingly, the petition is granted.

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

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of **October 31, 2001.**

Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

E. Shirene Willis

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

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

WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

Mail Date: 04/21/2010

Applicant	: Stefan Edward Strickholm	: DECISION ON REQUEST FOR
Patent Number	: 7634546	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/004,384	: 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 **1247** 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 PATENT
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FH

HAMILTON, BROOK,
SMITH & REYNOLDS PC
530 Virginia Road
P.O. Box 9133
Concord MA 01742-9133

MAILED
AUG 0 5 2002
REEXAM UNIT

In re Application of:
Ronald Breslow et al.
Appl. No. 10/004,411
Filed November 2, 2001
For: POTENT INDUCERS OF TERMINAL DIFFERENTIATION AND METHODS OF USE THEREFOR

DECISION GRANTING PETITION TO EXPEDITE PROSECUTION

Applicants' petition of May 20, 2002, under 37 CFR 1.182, to act on the reissue application without the standard two-month delay period following announcement of the reissue filing in the *Official Gazette*, is before the Office of Patent Legal Administration.

The petition is granted.

DISCUSSION

This application for reissue was filed on November 2, 2001. The announcement of the reissue filing was published in the *Official Gazette* on June 11, 2002.

Office policy normally provides for a two-month delay in examination following the announcement of the filing of the reissue in the O.G. MPEP 1441.

Applicant has requested via this petition waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement of a reissue filing in the O.G. Such waiver is requested in order that examination might commence as soon as possible, in view of the somewhat lengthy delay between the filing date and announcement in the O.G.

The two-month delay period following the *Official Gazette* notice of the reissue filing is provided in order that members of the public may have an opportunity to inspect and review the reissue

application and submit pertinent information to the Office in the form of a protest under 37 CFR 1.291(a) prior to the examiner's first Office action on the merits.

The granting of petitioner's request for expedited examination does not close or remove the public's opportunity to protest the reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

In the event an early determination of allowable subject matter is made by the examiner and made known to applicant, the application will be retained in the Technology Center pending expiration of the two month delay period, **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

The petition is granted.

The application is being forwarded to Technology Center 2800 for immediate examination as soon as practicable.

Since the two-month delay period is set to expire on August 11, 2002, the examiner is being instructed to expedite examination of this application.

Any further questions regarding the matter of this decision should be directed to Joseph Narcavage, Office of Patent Legal Administration, at (703) 305-1795.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SUSAN R. HALE
EASTMAN CHEMICAL COMPANY, LEGAL DEPARTMENT
P.O. BOX 511
KINGSPORT TN 37662-5075

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Boaz et al. : DECISION ON APPLICATION
Application No. 10/004,413 : FOR
Filed: December 6, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket No. 011927-113100 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed May 19, 2006. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from one hundred nine (109) days to nine hundred five (905) 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 **eight hundred thirty-six (836) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 21, 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 that the patent term adjustment to date is 109 days. In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term

[1] PALM Records indicate that the Issue Fee payment was received on May 19, 2006.

adjustment be corrected to 905 days. Applicants assert that the Office's delay pursuant to 37 C.F.R. § 1.703(a)(2) should be calculated as 905 days, not 140 days.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 109 days is incorrect. The Office mailed the Notice of Allowance and Fees Due an Office action under section 151 on February 25, 2004 four months and 69 days after the date of filing of applicant's reply, August 18, 2003. However, the Notice was not mailed to the correspondence address of record. The record supports a conclusion that this was due to an error on the part of the Office in mailing the Notice of Allowance and Fees Due to applicants. Accordingly, a corrected Notice of Allowance restarting the period for reply (and re-mailing the notice) was mailed on February 21, 2006.

Thus, the Office's delay should be calculated using February 21, 2006. Therefore, the period of delay is 796 days. However, petitioner is not entitled to 905 days adjustment. The 109 days adjustment originally provided included 69 days for the Office's delay pursuant to 37 C.F.R. § 1.703 (a)(2) in mailing the Notice of Allowance on February 25, 2004, four months and 69 days after the date of filing of applicant's reply, August 18, 2003. Since the Office's delay is properly calculated from February 21, 2006, the 69 days is encompassed in the 796 days. The 796 days in addition to the 71 days of Office delay for mailing the first Office action 14 months and 71 days after the application filing date totals 867 days of Office delay.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is eight hundred thirty-six days (836) days (867) days of PTO delay, reduced by (31) days of Applicants delay.

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

The address on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the Petitions Attorney Charlema Grant at (571) 272-3215.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

CC: Jeffrey A. Lindeman
Nixon Peabody LLP
Suite 900 401 9th Street, N.W.
Washington, DC 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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TROPIC NETWORKS INC.
DR. VICTORIA DONNELLY
135 MICHAEL COWPLAND DRIVE
KANATA ON K2M 2E9 CA CANADA

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MAR 2 8 2003

OFFICE OF PETITIONS

Applicant: Maung et al.
Appl. No.: 10/004,441
Filing Date: December 5, 2001
Title: INTERCONNECT SYSTEM WITH ERROR CORRECTION
Attorney Docket No.: TR-083
Pub. No.: US 2003/0051204 A1
Pub. Date: March 13, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on March 14, 2003.

The request is DISMISSED.

The instant request is that the application be republished because the assignee information is missing from the front page of the publication.

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

The instant request does not identify a material mistake in the publication made by the Office. The assignment information was not printed on the patent application publication, because it was not provided on the transmittal letter or on an application data sheet.[2] The Office prints the assignee information as reflected on the transmittal letter or application data sheet, if provided by applicant and does not look at the assignment records for the assignment information.

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)

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[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

[2] See Comment 59, Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57047 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 84 (Oct. 10, 2000) (final rule).

will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(b), should be submitted via the EFS system and questions 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.

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

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

UNITED STATES PATENT and TRADEMARK OFFICE
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. 10/004,463	:	DECISION ON
Filed: November 02,2001	:	PETITION
For: METHOD FOR FABRICATING MEMS AND MICROFLUIDICS DEVICES USING LATENT MASKING 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

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

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JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of
de la Torre et al.
Application No. 10/004,468
Filed: October 23, 2001
Attorney Docket No. SPC-5068CNT6

ON PETITION

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

The 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 March 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 25, 2003. A Notice of Abandonment was mailed September 29, 2003.

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

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

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[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 with the instant petition on November 3, 2003, failed to place the 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. An advisory action from the examiner is enclosed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on November 3, 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.

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 Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

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

Enclosure: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

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

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MAR 0 8 2004

OFFICE OF PETITIONS

In re Application of
De La Torre et al.
Application No. 10/004,468
Filed: October 23, 2001
Attorney Docket No. SPC-5069CNT6

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed February 24, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed March 24, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on June 25, 2003. A Notice of Abandonment was mailed on September 29, 2003.

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

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FEB 1 1 2005

OFFICE OF PETITIONS

MOSER, PATTERSON & SHERIDAN, LLP/
APPLIED MATERIALS, INC.
3040 POST OAK BOULEVARD, SUTIE 1500
HOUSTON TX 77056

In re Application of :
Yoichi Suzuki, et al. :
Application No. 10/004,489 : ON PETITION
Filed: October 23, 2001 :
Attorney Docket No. SOEI/0011 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed by facsimile transmission on February 10, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

Petitioner requests that the application be withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3).

The petition is **GRANTED**.

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

The application is being referred to the Office of Publications to be processed as an abandoned file.

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

Date : February 11, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yoichi Suzuki, et al.
Application No. : 10/004,489
Filed : October 23, 2001

The above-identified application has been assigned Patent No. 6,855,644 and an issue date of February 15, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 15, 2005:

"All reference to Patent No. 6,855,644 to YOICHI SUZUKI, ET AL.of JAPAN for METHOD OF FORMING FILM, METHOD OF MANUFACTURING SEMICONDUCTOR DEVICE, AND FILM FORMING APPARATUS appearing in the Official Gazette of February 15, 2005, should be deleted since no patent was granted."

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

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

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Paper No. 15

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of :
John J. McKillip :
Application No. 10/004,510 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. 72412 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 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 purportedly paid on March 4, 2003, 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 2854 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

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

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APR 19 2004

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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In re Application of
Shannon Morris
Application No. 10/004,511
Filed: October 22, 2001
Atty Docket No. 0SSV-083441

: DECISION ON PETITION

This is a decision on the petition filed on February 23, 2004, by which requests that prosecution on the merits of this application be reopened. The petition is being considered under 37 CFR 1.181, and no fee is required. Therefore, a refund of the $130.00 petition fee tendered with the petition will be scheduled.

The petition is granted.

Petitioner is requesting that prosecution be reopened in this application following an Examiner's Answer because the Examiner's Answer is alleged to contain a new ground of rejection. A review of the record shows that petitioner is correct in pointing out that the Examiner's Answer clearly contains a new rationale in support of the rejection of claim 8. While MPEP § 1208.01 indicates a change in the rationale in support of or the discussion of does not necessarily amount to a new ground of rejection where the evidence relied upon and the statutory basis for the rejection remain unchanged, a review of the record shows that in this instance, the rationale for the rejection is so different than that previously relied upon in the final rejection, as to constitute a new ground of rejection. Petitioner is correct in noting that in this instance, the newly advanced rationale for the rejection might be easily overcome by simply amending the claim, thereby avoiding the appeal process. Petitioner does not enjoy that option as a matter of right, and does not have the amount of time to consider that option that reopening the prosecution would that petitioner does not have the amount of time to make that decision that would be available if prosecution is reopened.

37 CFR 1.193(a)(2) prohibits the introduction of a new ground of rejection in an Examiner's Answer. See also MPEP § 1208.01. As it has been determined that the Examiner's Answer of record contains a new ground of rejection, the examiner is instructed to withdraw the Examiner's Answer in favor of reopening prosecution. The application is being remanded to the Supervisory Patent Examiner in Art Unit 3728 for action not inconsistent with this decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street
48th Floor
Los Angeles, CA 90071-1448

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 19 2004

In re Application of
Shannon Morris
Application No. 10/004,511
Filed: October 22, 2001
Atty Docket No. 0SSV-083441

: DECISION ON PETITION

This is a decision on the petition filed on February 23, 2004, by which requests that prosecution on the merits of this application be reopened. The petition is being considered under 37 CFR 1.181, and no fee is required. Therefore, a refund of the $130.00 petition fee tendered with the petition will be scheduled.

The petition is granted.

Petitioner is requesting that prosecution be reopened in this application following an Examiner's Answer because the Examiner's Answer is alleged to contain a new ground of rejection. A review of the record shows that petitioner is correct in pointing out that the Examiner's Answer clearly contains a new rationale in support of the rejection of claim 8. While MPEP § 1208.01 indicates a change in the rationale in support of or the discussion of does not necessarily amount to a new ground of rejection where the evidence relied upon and the statutory basis for the rejection remain unchanged, a review of the record shows that in this instance, the rationale for the rejection is so different than that previously relied upon in the final rejection, as to constitute a new ground of rejection. Petitioner is correct in noting that in this instance, the newly advanced rationale for the rejection might be easily overcome by simply amending the claim, thereby avoiding the appeal process. Petitioner does not enjoy that option as a matter of right, and does not have the amount of time to consider that option that reopening the prosecution would that petitioner does not have the amount of time to make that decision that would be available if prosecution is reopened.

37 CFR 1.193(a)(2) prohibits the introduction of a new ground of rejection in an Examiner's Answer. See also MPEP § 1208.01. As it has been determined that the Examiner's Answer of record contains a new ground of rejection, the examiner is instructed to withdraw the Examiner's Answer in favor of reopening prosecution. The application is being remanded to the Supervisory Patent Examiner in Art Unit 3728 for action not inconsistent with this decision.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Sheppard, Mullin, Richter & Hampton LLP
333 South Hope Street
48th Floor
Los Angeles, CA 90071-1448

Adjustment date: 04/28/2004 LMORGAN
02/24/2004 JADD01 00000067 191853 10004511
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

Mark Montague, Esq.
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York NY 10036

MAIL

MAR 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Allen
Application No. 10/004,545
Filed: December 5, 2001
For: **ELECTRONIC INFORMATION DELIVERY SYSTEM AND PROCESS INCLUDING SUPPLYING OF INFORMATION ABOUT LOCATIONS VISITED BY USERS OF PORTABLE IDENTIFICATION CARDS**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on January 26, 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 the applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being forwarded to the TC2600 Technical Support Staff to update the correspondence address; and then will be forwarded to the TC 2600 file repository

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

cc:
Gregory Allen
President/CEO
2565 Broadway
New York, New York 10025

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 030304

Mark Montague, Esq.
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036

MAR 9 2004

In re Application of:
Gregory Allen
Serial No.: 10/004,546
Filed: December 05, 2001
Attorney Docket No.: **24120-11**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed January 26, 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 Mark Montague, on behalf of himself and all the attorneys/agents of record. There is at least thirty (30) days remaining 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.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Gregory Allen, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Gregory Allen
2565 Broadway
New York, NY 10025

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. 060104

Mark Montague, Esq.
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036

JUN - 2 2004

In re Application of:
Gregory Allen
Serial No.: 10/004,547
Filed: December 05, 2001
Attorney Docket No.: **24120-08**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed April 28, 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 Mark Montague, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time. It is noted that the application is now abandoned.

All future communications from the Office will be directed to the inventor, Gregory Allen, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Gregory Allen
2565 Broadway
New York, NY 10025

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 22

THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD – TW199
TOWSON, MD 21286

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Gary Jennings et al :
Application No. 10/004,552 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. BR8669 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 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 January 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 30, 2004.

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

The application is being forwarded to Technology Center AU 3677 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 8

MARK MONTAGUE, ESQ.
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

MAIL

FEB 26 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:
Gregory Allen
Application No. 10/004,559
Filed: December 5, 2001
For: ELECTRONIC INFORMATION DELIVERY SYSTEM...

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent filed on January 26, 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 are withdrawn.

All future correspondence will be directed to the address listed below until such a time as a proper request for change of address is filed. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: Gregory Allen
2565 Broadway
New York, NY 10025

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Mark Montague, Esq.
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York NY 10036

MAIL

MAR 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of: :
Allen :
Application No. 10/004,560 : DECISION ON REQUEST TO
Filed: December 5, 2001 : WITHDRAW FROM RECORD
For: **ELECTRONIC INFORMATION DELIVERY SYSTEM AND PROCESS INCLUDING SUPPLYING OF INFORMATION ABOUT LOCATIONS VISITED BY USERS OF PORTABLE IDENTIFICATION CARDS AND DELIVERY OF CARD USER IDENTIFICATION INFORMATION TO THE VISITED LOCATIONS**

This is a decision on the request to withdraw as attorney/agent of record filed on January 26, 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 the applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being forwarded to the TC2600 Technical Support Staff to update the correspondence address, and then will be forwarded to the TC 2600 file repository

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

cc:
Gregory Allen
President/CEO
2565 Broadway
New York, New York 10025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 08-04

Paper No. 7

CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON MA 02109

COPY MAILED

JUN 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Danishefsky et al.	:	
Application No. 10/004,571	:	DECISION DISMISSING
Filed: 4 December, 2001	:	PETITION
Attorney Docket No. 2003080-0071	:	

This is a decision on the petition under 37 CFR 1.53(e) filed on 5 June, 2002.

The petition is **DISMISSED AS MOOT**.

On 4 December, 2001, the above-identified application was filed. Accordingly, on 19 March, 2002, Initial Patent Examination Division mailed a Notice to File Corrected Papers stating that the application had been accorded a filing date of 4 December, 2001, but that, *inter alia*, Figures 4A and 4B described in the specification appeared to have been omitted from the application.

In response the present petition was filed, accompanied by a copy of petitioners' return postcard itemizing the filing of, *inter alia*, 59 sheets of drawings and 76 sheets of formal drawings. Petitioners also provided a copy of the 76 sheets of "formal" drawings.

As Figures 4A and 4B described in the specification appear to be omitted from the 59 sheets of "informal" drawings, petitioners must supply a copy of the sheet(s) of drawings containing Figures 4A and 4B as originally filed on 4 December, 2001 (described on petitioners' postcard as "59 sheets of drawings"). A Request for Information was mailed on 25 October, 2002, requesting that petitioners provide a copy of the sheet(s) of drawings containing Figures 4A and 4B as originally filed on 4 December, 2001. However, no response has been received.

Upon a review of the record, the Notice mailed 19 March, 2002, was withdrawn on 18 September, 2002, and a Notice to File Corrected Application Papers was mailed. Since the new notice did not specify that any figures were omitted, the petition is considered unnecessary and will be dismissed as moot.

The petition fee of $130.00 will be credited to counsel's deposit account, No. 03-1721.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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MAY 12 2006
OFFICE OF PETITIONS

In re Patent No. 6,972,335 :
Danishefsky et al. : DECISION ON REQUEST FOR
Issue Date: December 6, 2005 : RECONSIDERATION OF
Application No. 10/004,571 : PATENT TERM ADJUSTMENT
Filed: December 4, 2001 :
Attorney Docket No. 2003080-0071 :
(SK-744-CON4) :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 9, 2006, which is being treated as a petition under 37 C.F.R. § 1.705(d).[1] Patentees request that the patent term adjustment indicated in the patent be corrected from seven hundred eleven (711) days to seven hundred fifty (750) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED.**

Patentees are given TWO (2) MONTHS from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On December 6, 2005, the above-identified application matured into U.S. Patent No. 6,972,335. The instant request for reconsideration filed January 9, 2006, was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment of 711 days. This revised determination was calculated as follows: The initial determination of PTA of 671 days was increased by

[1] The Office notes that 37 C.F.R. § 1.705(d) provides for a revision of the patent term adjustment when revision is necessitated by events occurring after the mailing of the notice of allowance.

40 days for Office delay in issuing the patent pursuant to 37 C.F.R. § 1.703(a)(6).

Patentees contend that they are entitled to a patent term adjustment of an additional 39 days, the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, October 28, 2005, and ending on the date the patent was issued, December 6, 2005. Patentees assert that 39 days should be added to the patent term adjustment of 711 days.

A review of the PALM calculations for this application reveals that the patent term adjustment at the time of the mailing of the notice of allowance was 671 days. Thereafter, the PTA was increased for Office delay in issuing the patent. Pursuant to § 1.702(a)(4), the period of adjustment for the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, October 28, 2005, and ending on the date the patent was issued, December 6, 2005, of 40 days, not 39 days, was entered. As such, the revised determination already includes the 40 days for Office delay in issuing the patent pursuant to 37 C.F.R. § 1.703(a)(6) in calculating the patent term adjustment of 711 days indicated in the patent. An increase of the patent term adjustment to 750 days is not warranted.

In view of thereof, the patent properly issued with a patent term adjustment of 711 days.

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

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
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CHOATE, HALL & STEWART LLP
SLOAN-KETTERING INSTITUTE FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JAN 29 2010

OFFICE OF PETITIONS

In re Patent No. **6,972,335**
Issue Date: December 6, 2005
Application No. 10/004,571
Filed: December 4, 2001
Attorney Docket No. **2003080-0071**

NOTICE UNDER 37 CFR 1.28(C)

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.

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

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

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

AVAILABLE COPY

Paper No. 10
jaw

Summa & Allan
11610 North Community House Road
Suite 200
Ballantyne Corporate Park
Charlotte, NC 28277

In re Application of	:	
Collins	:	
Application No. 10/004,575	:	DECISION ON PETITION
Filing Date: December 4, 2001		:
For: METHOD AND APPARATUS FOR RAPID FAT CONTENT DETERMINATION	:	

This is a decision on the petition under 37 CFR § 1.48(a) filed December 26, 2002.

On December 26, 2002, the present petition and the $130.00 petition fee were filed. Petitioner requests amendment of the inventorship to add Edward E. King. In support of the petition, a statement from inventor Edward E. King that the error in inventorship occurred without deceptive intention on his part, has been included. Also submitted was a statement of Consent of the Assignee to correct the inventorship. Petitioner requests that Edward E. King be added as an inventor of the above-identified patent application, and that the actual inventorship be given as Michael J. Collins and Edward E. King.

37 CFR 1.48 Correction of inventorship states, in part:

(a) If the inventive entity is set forth in error in an executed 1.63 oath or declaration in an application, other than a reissue application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the application may be amended to name onth the actual inventor or inventors. . . . Such amendment must be accompanied by:

ST AVAILABLE COPY

(1) A petition including 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 herpart;

(2) An oath or declaration by each actual inventor or inventors as required by § 1.63 or as permitted by 1.42, 1.43 or 1.47;

(3) The fee set forth in § 1.17(i); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 3.73(b)).

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(a). The petition is granted. A corrected filing receipt has been issued naming the actual inventors of the above-identified patent, namely, Michael J. Collins and Edward E. King.

PETITION GRANTED

Jill Warden
Supervisory Patent Examiner
Art Unit 1743

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	DRAWINGS	TOT CLAIMS	IND CLAIM
10/004,575	12/04/2001	1743	568	1700.89A	7	42	3

CONFIRMATION NO. 6

33197
STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

CORRECTED FILING RECEIPT

OC000000009635339

Date Mailed: 03/12/2

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Ple verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Of of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, ple submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael J. Collins, Charlotte, NC;
Edward E. King, Charlotte, NC;

Domestic Priority data as claimed by applicant

This application is a DIV of 09/603,487 06/23/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for rapid fat content determination

Preliminary Class

436

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184

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GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICEN GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions 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. 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 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless 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 revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is 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 impo by any Government contract or the provisions of existing laws relating to espionage and the national security or the expor technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of o agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Impleme of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office 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 LICEN GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is des before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV - 2 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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John F. Klos, Esq.
Fulbright & Jaworski L.L.P.
Suite 4850
225 South Sixth Street
Minneapolis, MN 55402-4320

MAILED

NOV - 2 2004

OFFICE OF THE DIRECTOR
TC 3600

In re Application of
Lance E. Anderson
Application No. 10/004,595
Filed: December 5, 2001
For: FOLDER DEVICE, DELIVERY POINT PACKAGE AND METHOD OF USE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on June 11, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on February 19, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

SNM/vdb: 10/28/04

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

LAW OFFICES OF THOMAS E. SCHATZEL
A Professional Corporation
Suite 240
16400 Lark Avenue
Los Gatos CA 95032-2547

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NOV 1 5 2002

OFFICE OF PETITIONS

In re Application of:
Kiremidjian, *et al.*
Application No. 10/004,608
Filed: November 27, 2001
Attorney Docket No. SS-709-09

DECISION GRANTING PETITION

This is a decision on the March 18, 2002 petition under 37 C.F.R. §1.10(c) requesting a corrected filing receipt and that the above-identified application be accorded a filing date of November 27, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 27, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EM379061832US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 27, 2001. The petition also contains copies of the filing receipt (showing a filing date of October 27, 2001) and the return receipt postcard indicating a November 27, 2001 receipt date.

In view of the above, *this petition is* ***granted***.

This application will be returned to Initial Patent Examination Division for issuance of a corrected filing receipt indicating the correct filing date of November 27, 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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c/o GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
ATTN: LEGAL - IP
OLATHE, KS 66062

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Craig Burfeind, et al. :
Application No. 10/004,623 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. 1081.001US2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 24, 2003. A Notice of Abandonment was mailed on October 1, 2003. In response, on December 22, 2003, a petition to withdraw the holding of abandonment was filed. The petition was dismissed in a decision mailed January 26,2006. Thereafter, on March 10, 2006, a petition to revive under 37 CFR 1.137(b) was filed; however the petition was dismissed in a decision mailed March 9, 2007. On March 29, 2007, the present petition was filed.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and fee of $790; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2863 for further processing the RCE in accordance with 37 CFR 1.114.

Receipt is acknowledged of the notification of loss of entitlement to small entity status. Accordingly, status as a small entity has been removed. All future fees must be paid as a large entity.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 15

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

JAN 26 2006

In re Application of :
BURFEIND et al. : DECISION ON PETITION
Application No. 10/004,623 :
Filed: December 3, 2001 :
Attorney Reference No. 14305.6USC1 :

This is a decision on the petition filed December 22, 2003 and resubmitted January 31, 2005, requesting a decision on the petition to withdraw the holding of abandonment.

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

A final Office action was mailed on March 24, 2003, setting a three-month period of response. The Notice of Abandonment was mailed October 1, 2003.

Petitioner states that the final Office action was mailed to the old correspondence address and not to the new correspondence address of record. Petitioner further states that he did not intend to abandon the application or fail to respond the final Office action. The petition is accompanied by declarations of Nicholas P. Johns, Richard J. Gregson and Jodi Gandel-Klien, along with a copy of the docket record where the final Office action would have been entered and docketed.

A review of the written record indicates that the final Office action was received by petitioner, albeit, from the previous attorney of record, Schwegman. The final Office action was mailed to Schwegman and Schwegman transferred the final Office action to petitioner.

The record also indicates that a Revocation of Powers of Attorney, a Power of Attorney and a change of address was received on March 17, 2003, but not entered into the file until April 8, 2003. A supplemental Information Disclosure Statement was filed on May 6, 2003.

Pursuant to M.P.E.P. §710.06, the Office will grant a petition to restart the previously set period for reply to an Office action to run from the date of receipt of the Office action at the correspondence address when the following criteria are met:

(A) the petition is filed within 2 weeks of the date of receipt of the Office action at the

correspondence address;
(B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g., at least 1 month of a 2- or 3-month reply period had elapsed); and
(C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., a copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, a copy of the envelope (which contained the Office action) having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt of the Office action at the correspondence address.

Petitioner failed to take the necessary steps to restart the shortened statutory period for reply. When the final Office action was received from Schwegman, petitioner should have informed the USPTO that the final Office action was not mailed to the correct correspondence address and asked that the shortened statutory period for reply be restarted.

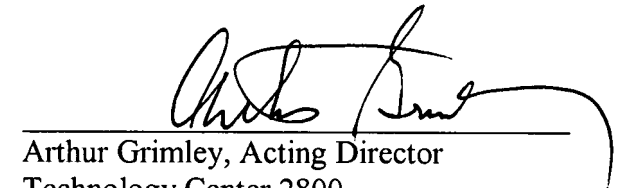
While it is regrettable that the final Office action was not mailed to the correct correspondence address, petitioner's failure to take action is no reason to withdraw the holding of abandonment.

As for petitioner's intention not to abandoned this application, this petition will not address the issue.

For the above reasons, the petition to withdraw the holding of abandonment is denied.

Petitioner may wish to consider filing a petition under 37 CFR § 1.137(a) or (b) requesting that the application be revived. A petition under 37 CFR § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action; (2) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; (3) any terminal disclaimer required pursuant to 37 CFR § 1.137(c); and (4) the petition fee as set forth in 37 CFR § 1.17(m). No consideration to the substance of a petition will be given until this fee is received.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



Arthur Grimley, Acting Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

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MINNEAPOLIS MN 55402-0903

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MAR 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Craig Burfeind, et al. :
Application No. 10/004,623 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. **1081.001US2** :

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The petition lacks item 1 above.

It is noted that an amendment was included with the petition filed on March 10, 2006. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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c/o GARMIN INTERNATIONAL, INC.
1200 EAST 151ST STREET
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OLATHE, KS 66062

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of :
Craig Burfeind, et al. :
Application No. 10/004,623 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. 1081.001US2 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 24, 2003. A Notice of Abandonment was mailed on October 1, 2003. In response, on December 22, 2003, a petition to withdraw the holding of abandonment was filed. The petition was dismissed in a decision mailed January 26,2006. Thereafter, on March 10, 2006, a petition to revive under 37 CFR 1.137(b) was filed; however the petition was dismissed in a decision mailed March 9, 2007. On March 29, 2007, the present petition was filed.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and fee of $790; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2863 for further processing the RCE in accordance with 37 CFR 1.114.

Receipt is acknowledged of the notification of loss of entitlement to small entity status. Accordingly, status as a small entity has been removed. All future fees must be paid as a large entity.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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NOV 20 2003

OFFICE OF PETITIONS

In re Application of
Howard M. Kingston
Application No. 10/004,627
Filed: December 4, 2001
Attorney Docket No. 286697-00002-1

ON PETITION

This is a decision on the petition, filed November 18, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Date : November 19, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of Application No. 10/004,627

Applicant(s) : Howard M. Kingston
Application No. : 10/004,627
Filed : December 4, 2001

The above-identified application has been assigned Patent No. 6,653,623 and an issue date of November 25, 2003.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 25, 2003:

> "All reference to Patent No. 6,653,623 to Howard M. Kingston of Pennsylvania for METHOD AND APPARATUS FOR AUTOMATED IN-PROCESS, ISOTOPE DILUTION THRESHOLD AND QUANTITATION MEASUREMENT MASS SPECTROMETRY appearing in the Official Gazette of November 25, 2003 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

UNITED STATES PATENT AND TRADEMARK OFFICE

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

September 9, 2004

MACPHERSON, KWOK, CHEN & HEID LLP
1762 Technology Drive, Suite 226
San Jose CA 95110

In re Application of:	:	
KINGSTON, HOWARD M.	:	NOTICE OF WITHDRAWAL
Application No. 10/004,627	:	FROM ISSUE
Filed: December 4, 2001	:	
Attorney Docket No. 286697-00002-1	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed August 23, 2004, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution and consideration of the petition under 37 C.F.R. 1.47(a) filed April 16, 2004, the request to correct inventorship under 37 C.F.R. 1.48, and the two declarations in support of the petition under 37 C.F.R. 1.47(a) also filed on April 16, 2004.

The issue fee is refundable upon request. However, the applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the issue fee paid on September 15, 2003, be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, the applicant may request either a refund or a credit to a Deposit Account.

The above-identified application is being forwarded to the examiner for consideration of the petition to correct inventorship under 37 C.F.R. 1.48. Thereafter, it will be forwarded to the Office of Petitions for consideration of the petition under 37 C.F.R. 1.47(a).

Telephone inquires should be directed to Frank G. Font, Supervisory Patent Examiner, at (571) 272-2415.

Janice A. Falcone

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

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MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
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APR 0 7 2005

OFFICE OF PETITIONS

In re Application of
Howard M. Kingston, Marc R. Anderson, Ye Han
Application No. 10/004,627
Filed: December 4, 2001
Attorney Docket No. M-15307 US

DECISION DISMISSING PETITIONS UNDER § 1.48(a) and § 1.183

This is a combined decision on the petitions under 37 CFR 1.47(a) and 37 C.F.R. § 1.48(a), filed April 16, 2004. The petition under 37 C.F.R. § 1.47(a) is properly treated as a petition under § 1.183 to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

The above-identified application was filed on December 4, 2001. A properly executed declaration identifying sole inventor Howard Kingston was filed on February 12, 2002, in response to a Notice to File Missing Parts mailed December 31, 2001. On April 16, 2004, the instant request under § 1.48(a) was filed to amend the inventorship to add joint inventors Marc R. Anderson and Ye Han. Accompanying the petition were statements from added inventors Anderson and Han stating that the inventorship error occurred without deceptive intention; and a declaration executed by Anderson and Han.

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 inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual 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 (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1), (2), and (4). The petition specifically requests the addition of inventors Anderson and Han. Petitioner has paid the processing fee. However, the petition does not satisfy requirement (5). The petition includes a statement signed by the "Director and Chief Technical Officer of Metars, Inc.", who states that the assignee consents to the change in inventorship.[1] A "Director and Chief Technical Officer" is not presumed to have authority to sign on behalf of the assignee corporation. On renewed petition, petitioner must submit a statement from an officer - e.g. President, Vice-President, Secretary, Treasurer, or Chief Executive Officer. Alternatively, the person making the statement may simply state that he or she is authorized to sign on behalf of the corporation.[2]

Accordingly, the petition under § 1.48(a) is **DISMISSED**.

The petition under § 1.183 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 1.183 and 37 CFR 1.48(a)". This is **not** a final agency decision within the meaning of 5 USC 704.

Pursuant to petitioner's authorization, the following fees have been charged to Deposit Account No. 50-2257: $130 fee in effect as of April 16, 2004, for the petition under 37 C.F.R. § 1.183 (37 C.F.R. § 1.17(f)), $130 processing fee (37 C.F.R. § 1.17(i)).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] Office records show the assignment is recorded at Reel/Frame 012827/0593.

[2] See MPEP 409.03(b).

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JUL 0 8 2005

OFFICE OF PETITIONS

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE CA 95110

FAX RECEIVED
JUL 0 8 2005
OFFICE OF PETITIONS

In re Application of :
Howard M. Kingston, Marc R. :
Anderson, Ye Han :DECISION GRANTING PETITIONS
Application No. 10/004,627 :UNDER § 1.48(a) and § 1.183
Filed: December 4, 2001 :
Attorney Docket No. M-15307 US :

This is a decision on the "RENEWED PETITION UNDER 37 C.F.R. 1.183 AND 37 C.F.R. 1.48(A)", filed May 4, 2005, to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

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

The petition under 37 CFR 1.48(a) is **GRANTED**.

The above-identified application was filed on December 4, 2001. A properly executed declaration identifying sole inventor Howard Kingston was filed on February 12, 2002, in response to a Notice to File Missing Parts mailed December 31, 2001. On April 16, 2004, applicants filed a request under § 1.48(a) to amend the inventorship to add joint inventors Marc R. Anderson and Ye Han. Accompanying the petition were statements from added inventors Anderson and Han stating that the inventorship error occurred without deceptive intention; and a declaration executed by Anderson and Han.

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 inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual 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 (see § 3.73(b) of this chapter).

In the April 16, 2004 petition, petitioner satisfied requirements (1), (2), and (4). The petition specifically requested the addition of inventors Anderson and Han. Petitioner paid the processing fee. However, the petition did not satisfy requirement (5). The petition included a statement signed by the "Director and Chief Technical Officer of Metars, Inc.", who states that the assignee consents to the change in inventorship.[1] A "Director and Chief Technical Officer" is not presumed to have authority to sign on behalf of the assignee corporation. Accordingly, the petition was dismissed in a decision mailed on April 7, 2005. Petitioner was instructed to submit a statement from an officer - e.g. President, Vice-President, Secretary, Treasurer, or Chief Executive Officer, or supply a statement from the person signing stating that he or she is authorized to sign on behalf of the corporation.[2]

On renewed petition, petitioner has submitted a written consent of the assignee signed by Robert C. McDonald, Vice President and Chief Technical Officer of Metars, Inc.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. Petitioner has shown that Kingston has been given the opportunity to sign the declaration adding the joint inventors, but refuses to do so.

Accordingly, the newly executed declaration filed on July 19, 2004 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(3) that all the inventors sign a reexecuted oath or declaration has not been satisfied.

The application is being forwarded to Group Art Unit 2883 for processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] Office records show the assignment is recorded at Reel/Frame 012827/0593.

[2] See MPEP 409.03(b).

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Levinson, et al. :
Application No. 10/004,633 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No. 7853-251-999 :

This is a decision on papers styled "Petition Under 37 CFR 1.182 and 1.17(h)" filed on March 25, 2002, requesting that the above-identified application be accorded a filing date of December 4, 2001, including pages 58-60 of the specification.

The application was filed on December 4, 2001. However, on January 24, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Nonprovisional Application" that stated the application had been accorded a filing date, but that pages 58, 59 an 60 of the specification appear to have been omitted.

In response, on March 25, 2002, the instant petition and copies of pages 58-60 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of two hundred twenty (220) pages of application, on December 4, 2001. A review of the application file indicates the presence of two hundred seventeen (217) pages of application. It is assumed that pages 58, 59 and 60 of the specification were misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee has not been charged.

This application will be returned to OIPE for further processing with a filing date of December 4, 2001, using the copies of pages 58, 59 and 60 of the specification, supplied on March 25, 2002.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

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

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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of
Johnston, et al.
Application No. 10/004,655
Filed: December 04, 2001
Attorney Docket No. 01CON207P

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 21, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

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 prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay as to the

nonprovisional application. Applicant's statement of unintentional delay is construed to apply to the provisional applications also. If this understanding is not correct, applicant must notify the Office immediately. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the 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 this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 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 this 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 Erin P. Thomson at (571) 272-3292. 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 2663 for appropriate action on the amendment submitted October 21, 2005, including consideration by the examiner of the claim for benefit of the prior-filed applications.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT : Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/004,655	12/04/2001	2616	1598	01CON207P	6	37	5

CONFIRMATION NO. 9653

25700
FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

CORRECTED FILING RECEIPT

OC000000018862561

Date Mailed: 05/18/2006

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)

Jim W. Johnston, Rancho Santa Margarita, CA;
Michael S. Beadle, Tustin, CA;
Paul C. Wren, Valbonne, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number **25700**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/270,391 02/21/2001
and is a CIP of 09/547,119 04/11/2000 PAT 6,757,250
which claims benefit of 60/128,844 04/12/1999
and claims benefit of 60/130,416 04/21/1999

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 01/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/004,655

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Data compression over packet networks

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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R. DANNY HUNTINGTON
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K Street, NW
Washington, DC 20005

Mail Date: 07/07/2010

Applicant	: Manolito E. Adan	: DECISION ON REQUEST FOR
Patent Number	: 7639235	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/004,663	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/04/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1983** 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. 13

William F. Kolakowski, III
DYKEMA GOSSETT PLLC
39577 Woodward Ave., Suite 300
Bloomfield Hills, MI 48304-2820

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MAR 27 2003

OFFICE OF PETITIONS

In re Application of :
Stephen CLAUSSEN et al. :
Application No. 10/004,719 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No. 60680-553 :

This is a decision on the petition, filed March 25, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 22, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to B. Dayoan at (703) 308-3865 or, in her absence, 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 2855 for processing of

[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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the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

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Booth Udall, PLC
1155 W Rio Salado Parkway
Suite 101
Tempe, AZ 85281

Mail Date: 04/20/2010

Applicant	: Narayan Venkatasubramanyan	: DECISION ON REQUEST FOR
Patent Number	: 7672862	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/004,725	: 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.

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P.O. BOX 2567
GRAND RAPIDS, MI 49501

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Kurth et al.
Application No. 10/004,733
Filed: December 4, 2001
Attorney Docket No. URE02 P-310

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 14, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **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 December 4, 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.

The petition fee is $1330.00. Petitioner only submitted $1300.00. As previously authorized, an additional $30.00 was charged to petitioner's deposit account to cover the difference.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 1762 for appropriate action on the amendment filed September 14, 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

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695 KENMOOR SE
P O BOX 2567
GRAND RAPIDS, MI 49501

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Thomas M. Kurth et al :
Application No. 10/004,733 : DECISION GRANTING PETITION
Filed: December 4, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. URE02 P-310 :

This is a decision on the petition, filed January 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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]

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

This matter is being referred to Technology Center AU 1762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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Paper No.

Mark K. Johnson
P. O. Box 510644
New Berlin, WI 53151-0644

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of :
Jon A. Wolff, et al. :
Application No. 10/004,763 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. MIRUS.003.06.2 :

This is a decision on the petition filed May 6, 2004, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED.**

A non-final Office action was mailed to applicant on September 9, 2003, setting a three-month shortened statutory period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on December 10, 2003.

Petitioner alleges that a reply was timely filed via facsimile transmission on December 8, 2003. In support, petitioner provides a copy of the amendment along with a transmission report showing that the amendment was in fact received in the USPTO on December 8, 2003. In view thereof, the application was improperly held abandoned. Accordingly, the petition fee of $55 is unnecessary and a refund of such may be requested by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

The application file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Examination Policy

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MCCARTER & ENGLISH, LLP STAMFORD
FINANCIAL CENTRE , SUITE 304A
695 EAST MAIN STREET
STAMFORD CT 06901-2138

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NOV 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Hans Ott :
Application No. 10/004,787 :
Filed: December 7, 2001 :
Attorney Docket No. 031211-066 :

NOTICE

This is a notice regarding your request filed September 8, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 4/29/05

dss
Paper Number _____

In re application of
Norihide Ooyama
Serial No10/004,803
Filed: December 07, 2001
For: SEALED BATTERY

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed April 27, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 23, 2004, for failure to timely file a proper reply to the Office letter mailed May 07, 2003 be withdrawn since the applicants did timely file a reply on August 05, 2003, 2003. (Copies of the papers filed August 05,2003 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed August 05, 2003 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on August 05, 2003. However, upon review of the application history the holding of abandonment for failure to timely file a proper reply to the Office letter mailed May 07, 2003 has already been rescinded, in the Office letter mailed February 23, 2005 and the application has been returned to pending status. Thus the instant petition is now rendered moot.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed August 05, 2003.

The Petition is DISMISSED.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kenneth H. Salen
Westerman, Hattori, Daniels,& Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, D.C. 200036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/06/06 Resubmission

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction on Patent No.: 10/004860 6914047

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

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

Thank You For Your Assistance

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

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

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

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit** 1653

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604-1619

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SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of:
Clifford, *et al.*
Application No. 10/004,936
Filed: December 5, 2001
Attorney Docket No. 15605

DECISION GRANTING PETITION

This is a decision on the February 22, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of December 5, 2001 rather than the presently accorded filing date of December 7, 2001.

Petitioner alleges that the application was deposited in Express Mail service on December 5, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL588511305US (the same Express Mail number found on the original application papers located in the official file). It shows no indication of the date of deposit. However, the copy of the USPS.com Express Mail tracking service included with the petition shows that the application was, in fact, en route on December 5, 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 December 5, 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

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WARD & OLIVO, LLP
382 SPRINGFILED AVENUE
SUMMIT, NJ 07901

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APR 0 8 2009

OFFICE OF PETITIONS

In re Patent No. 6,760,900
Issue Date: July 6, 2004
Application No. 10/004,976
Filed: December 3, 2001
Patentee(s): Hamid Reza Rategh, et. al.

ON PETITION

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

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. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

This patented file is being forwarded to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Baker Botts L.L.P.
Suite 600
2001 Ross Avenue
Dallas, TX 75201-2980

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JUL 07 2006
OFFICE OF PETITIONS

In re Application of :
Charles H. Culp, et. al. :
Application No. 10/004,988 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. 017575.0490 (TAMUS 1549) :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 4, 2005, to revive the above-identified application.

The application became abandoned for failure to timely reply to the final Office action mailed February 4, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $395 filing fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment and $285 for a three (3) month extension of time filed on October 4, 2005. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $285 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being revived for consideration of the RCE filed November 28, 2005.

The application file is being referred to Technology Center Art Unit 2167.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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JAMES M. SMITH, ESQ.
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUL 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Domenic F. Terranova et al : DECISION GRANTING
Application No. 10/004,989 : PETITION
Filed: December 3, 2001 :
Attorney Docket No. 3058.1008-004 :

This is a decision on the petition filed April 26, 2002, requesting that the above-identified application be accorded a filing date of December 3, 2001, rather than the presently accorded filing date of December 4, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **granted.**

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on December 3, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicant provides a copy of the receipt for Express Mail label No. EL930599477US. The same Express Mail number was referred to in the original transmittal letter found in the present application. It is noted that while the "date-in" on the copy of the Express Mail receipt is December 4, 2001, it includes a "Boston Massachusetts USPS" receipt stamp dated December 3, 2001. Additionally, a copy of the mail courier's Express Mail Log for December 3, 2001, was provided.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on December 3, 2001. Accordingly, the instant application is entitled to a filing date of December 3, 2001 and has been so accorded. A filing receipt with the corrected filing date will be mailed in due course.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a **filing date of December 3, 2001**, and for mailing of a corrected filing receipt.

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

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

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AUG 05 2003

OFFICE OF PETITIONS

In re Application of :
Jones, et al. :
Application No. 10/004,994 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. 1644

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 3, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the 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 and Notice of Foreign Filing indicating a projected publication date of November 13, 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 file is being forwarded to Technology Center 2100, Group Art Unit 2155 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)

cc: Lawrence H. Aaronson
McDonnel Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, Illinois 60606

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Mail Date: 04/21/2010

Applicant	: Bryce A. Jones	: DECISION ON REQUEST FOR
Patent Number	: 7617317	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/004,994	: 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 **1315** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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SPRINT
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 05/18/2010

Applicant : Bryce A. Jones
Patent Number : 7617317
Issue Date : 11/10/2009
Application No: 10/004,994
Filed : 12/03/2001

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Mark J. Spolyar
38 Fountain Street
San Francisco, CA 94114

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NOV 15 2006

OFFICE OF PETITIONS

In re Application of:
LEVIN, Kenneth Martin
Application No.: 10/005,016
Filing Date: December 04, 2001
Attorney's Docket No.: 6535/53651
For: ADHESIVE BANDAGE INDICATING WOUND CARE INSTRUCTIONS

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2005 (and January 30, 2006) to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed March 29, 2004, which set a shortened statutory period for reply of three (3) months. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 29, 2004.

On February 14, 2005, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply has been received. Accordingly, the reply to the final Office action of March 29, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned.

The application is being referred back to GAU 3761 further processing.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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.
10/005,065	**31-Jan-02**	**KRASULICK, ET AL.**	**OPT-003**

Title: ELECTRO-ABSORPTION MODULATED LASER WITH HIGH OPERATING TEMPERATURE TOLERANCE

Art Unit	Paper Number

Correspondence Address:
KURT RAUSCHENBACH
LAW OFF OF KURT RAUSCHENBACH
P.O. BOX 387
BEDFORD MA 01730

PATENT & TRADEMARK OFFICE
MAILED
MAR 17 2003
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

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

Kurt Rauschenbach, Ph.D.
Law Office of Kurt Rauschenbach
P. O. Box 387
Bedford, Massachusetts 01730

In re:	KRASULICK et al	:	DECISION ON REQUEST
Serial No.:	10/005,065	:	UNDER 37 CFR 5.25
Filing date:	December 4, 2001		
Docket No:	OPT-003		

Title: ELECTRO-ABSORPTION MODULATED LASER WITH HIGH OPERATING TEMPERATURE TOLERANCE

This is a decision on the petition filed on January 31, 2003 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is **Denied** at this time in that the petition is defective since none of the requirements set forth in 37 C.F.R. 5.25(a)(1) – (a)(3)(i-iii) have been met

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and

in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Zachary Gibler, Timothy Hogan, :
Patrick Quinn, Charles Darnell and : DECISION REFUSING STATUS
Doug Stang : UNDER 37 C.F.R. §1.47(a)
Application No. 10/005,099 :
Filed: December 5, 2001 :
Attorney Docket No. N0023/250365 :
Title: SYSTEMS AND METHODS FOR :
PROVIDING LIGHTING SOLUTIONS OVER A:
COMPUTER NETWORK :

This is a decision on the "Response to Notice to File Missing Parts of Application and Petition under 37 CFR 1.47(a)," filed July 8, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on December 5, 2001, with an unexecuted declaration. Zachary Gibler, Timothy Hogan, Patrick Quinn, Charles Darnell and Doug Stang were named as joint inventors. Accordingly, on January 7, 2002, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition, with a declaration executed by joint inventors Gibler, Hogan, Quinn and Darnell on behalf of themselves and on behalf of non-signing joint inventor Stang; and paid both the petition fee and late surcharge. This reply was made timely by an accompanying petition for extension of time for response within the fourth month (and fee). Applicants assert that status under § 1.47 is proper because inventor Stang has not responded to a presentation of the declaration at one address, and cannot be found at a more recent address. In support thereof, applicants submitted the declaration of associate counsel Karen Shelton.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after 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; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1), and possibly (4).

The evidence does not show that inventor Stang has refused to join in the application. Before a refusal can be alleged, applicants must demonstrate that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The evidence currently of record only supports a conclusion that the combined declaration and power of attorney and assignment papers were presented to inventor Stang. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Nor have applicants submitted adequate proof of their inability to reach or find non-signing inventor Stang after diligent effort. Attorney Shelton's declaration shows that after no response was received to the presentation of the declaration at one address, further investigation was undertaken and a new address was uncovered. However, the mailing to inventor Stang at that address went "unclaimed." This evidence is not adequate to show diligent efforts to reach or find inventor Stang. Having been unsuccessful in contacting inventor Stang at a no longer valid address, there is no indication that Rule 47 applicants attempted to determine inventor Stang's forwarding address, and to send the application papers to that address for consideration by inventor Stang. See MPEP 409.03(d). If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, a new telephone number, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached or found after diligent effort. Details of the efforts to locate non-signing inventor Stang should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of an E-mail or Internet search.

Given the further efforts that should be undertaken to locate inventor Stang, any renewed petition should include any new last known address of non-signing inventor Stang.

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
ATTN: NANCY JOHNSON

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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JAN 2 7 2003

OFFICE OF PETITIONS

In re Application of :
Zachary Gibler, Timothy Hogan, :
Patrick Quinn, Charles Darnell and :
Doug Stang :
Application No. 10/005,099 :
Filed: December 5, 2001 :
Attorney Docket No. N0023/250365 :
Title: SYSTEMS AND METHODS FOR :
PROVIDING LIGHTING SOLUTIONS OVER :
A COMPUTER NETWORK :

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

This is a decision on the "Request for Reconsideration of Petition under 37 CFR 1.47(a) and Petition for One-Month Extension of Time to Respond," filed January 16, 2003 (certificate of mailing January 9, 2003).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on December 5, 2001, with an unexecuted declaration. Zachary Gibler, Timothy Hogan, Patrick Quinn, Charles Darnell and Doug Stang were named as joint inventors.. In response to the "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)" mailed January 7, 2002, applicants timely filed the initial petition under § 1.47 to accept a declaration without the signature of inventor Stang. However, this petition was dismissed for failure to submit adequate proof that either inventor Stang had refused to join in the application after having been presented with the application papers, or that inventor Stang could not be reached or found to join in the application; and for clarification of inventor Stang's last known address (Decision mailed October 10, 2002). The decision dismissing the petition set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

On instant request for reconsideration, applicants replied with a declaration executed by previously non-signing inventor Stang. This reply was made timely by an accompanying petition for a one-month extension of time and extension fee. A declaration executed by a previously non-signing inventor is a proper reply to a decision dismissing a petition under § 1.47. This declaration (considered in combination with the declarations previously filed July 8, 2002) has been reviewed and found in compliance with 37 CFR 1.63 and 1.64.

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

Jeffrey Brill
FENWICK & WEST L.L.P.
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAILED

JUN 18 2004

Technology Center 2100

In re Application of:
Paul C. Kocher
Application No. 10/005,105
Filed: December 03, 2001
For: DIFFERENTIAL POWER ANALYSIS METHOD AND APPARATUS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 04, 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 June 04, 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.

James R. Matthews

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

cc: Edward J. Radlo
SONNENSCHEIN NATH & ROSENTHAL LLP
685 Market Street, 6th Floor
San Francisco, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

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JAN 31 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul C. Kocher, et al.	:	
Application No. 10/005,105	:	DECISION GRANTING PETITION
Filed: December 3, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 44424162-8721	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 30, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 18, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2132 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/005,105	12/03/2001	Paul C. Kocher	028420-0012CIP

CONFIRMATION NO. 1675

OC000000022262583

OC000000022262583

CRYTOGRAPHY RESEARCH, INC.
607 MARKET STREET
5TH FLOOR
SAN FRANCISCO, CA 94105

Date Mailed: 01/31/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2004.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TINA M. POWERS
VERTEX PHARMACEUTICALS INCORPORATED
130 WAVERLY STREET
CAMBRIDGE, MA 02139-4242

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DEC 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Ledeboer et al.	:	
Application No. 10/005,133	:	ON PETITION
Filed: December 5, 2001	:	
Attorney Docket No. VPI/00-126 US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 3, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an 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 1600 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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APR 12 2005

DELTAGEN, INC.
1031 BING STREET
SAN CARLOS CA 94070

In re Application of	:
Catherine Guenther et al	:
Serial No.: 10/005,169	: PETITION DECISION
Filed: March 28, 2002	:
Attorney Docket No.: DGEN-0687	:

This is in response to the petition under 37 CFR 1.181, filed September 17, 2004, requesting withdrawal of abandonment based non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on September 8, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of abandonment mailed August 26, 2004. Applicants provide statements and docket records indicating non-receipt of the Office action. In view thereof the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 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
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SCHWEGMAN, LUNDBERG, WOESNER &
KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Rodney W. Salo :
Application No. 10/005,184 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. 279.365US1 :

This is a decision on the petition, filed January 7, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 13, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3762 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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DIW Sep-06

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/005,193 : ON PETITION
Filed: 4 December, 2001 :
Atty Dckt No. 200302024-1 :

This is a decision on the petition filed on 8 September, 2006, filed under 37 CFR 1.47(b) which is being treated as a petition under 37 CFR 1.183[1] requesting waiver of the requirement of 37 CFR 1.63(a)(2) as to the full name of the second named 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 TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioners have not sufficiently established any special circumstances of equities that would require suspension of the rules in the interests of justice.

There is no requirement for a showing under 37 CFR 1.47, as noted above. This application bears an original Declaration executed by joint inventor Murali, and thus, the provisions of 37 CFR 1.47

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

do not apply in this instance. Nevertheless, it is appropriate to apply the principles thereof to the situation at hand.

Petitioners have not shown that diligent efforts were made to contact joint inventor Murali. Specifically, no correspondence was sent to Murali's last known address. Petitioners should sent a letter to Murali's last known address asking him to verify his full name, and to sign a statement acknowledging his full name. A copy of the cover letter sent to Murali should be provided with any renewed petition. Additionally, in the event that the letter is returned as undeliverable, petitioners may show diligent efforts to locate Murali by providing a copy of the envelope showing that a letter sent to the last known address of the inventor was returned as undeliverable by the post office. Details of the efforts made to locate the inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details. Additionally, if the inventor no longer lives at the last known address, petitioners may show diligent efforts by use of e-mail, internet, or telephone searches to determine a current address for joint inventor Murali. If a more recent address is discovered, petitioners should send or give a copy of the correspondence to the inventor at that address.

If repeated attempts to contact joint inventor Murali are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

As the present petition requires treatment under 37 CFR 1.183 rather than 1.47, a petition fee of $400.00 pursuant to 37 CFR 1.17(f) is due. Counsel's deposit account will be charged the additional $200.00 for the petition under 37 CFR 1.183 as authorized in the present petition.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DRW Jan-07

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/005,193 : ON PETITION
Filed: 4 December, 2001 :
Atty Dckt No. 200302024-1 :

This is a decision on the renewed petition under 37 CFR 1.183, filed on 21 November, 2006.

The petition is again **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

On 4 December, 2001, the application was filed.

On 5 March, 2002, an executed declaration in compliance with 37 CFR 1.63 was filed, listing the inventors as Trista P. Chen, T.M. Murali, and Rahul Sukthankar.

On 8 September, 2006, a petition was filed requesting waiver of 37 CFR 1.63(a)(4) in that it required each inventor to be identified by at least one given name. Specifically, petitioners stated that joint inventor Murali could not be located to obtain to obtain a supplemental declaration in compliance with 37 CFR 1.63(a)(4) listing Murali's full name.

A decision dismissing the petition was mailed on 22 September, 2006. The decision stated that petitioners had not shown that diligent efforts had been made to contact Murali, and that a letter should be sent to Murali's last known address asking him to verify his full name.

On 21 November, 2006, the present renewed petition was filed. The renewed petition includes a declaration of facts signed by inventor T.M. Murali reciting his name as Thiruvadaimaruthur M. Murali.

While petitioners have located joint inventor Murali and obtained his first name, a declaration in compliance with 37 CFR 1.63(a)(4), identifying each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, is still required. As petitioners have now obtained Murali's full name, petitioners must provide a supplemental in compliance with 37 CFR 1.63 listing the names of all of the joint inventors, including the full name of Murali in accordance with 37 CFR 1.63(a)(4), and signed by joint inventor Murali.

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

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OCT 12 2007

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application Number: 10/005193 : ON PETITION
Filing Date: 12/04/2001 :
Attorney Docket Number: :
200302024-1 :

This is a decision on the renewed petition under 37 CFR 1.183 filed on 12 July, 2007.

The petition is **dismissed as moot**.

On 22 September, 2006, a petition was filed requesting waiver of the requirement of 37 CFR 1.63(a)(2) as to the identification of each inventor by full name, with respect to joint inventor Murali. The petition was dismissed on 22 September, 2006, and a renewed petition was filed 21 November, 2006. The renewed petition was dismissed on 4 January, 2007, and the present renewed petition was filed on 12 July, 2007, accompanied by a declaration in accordance with 37 CFR 1.63 identifying joint inventor Murali by his full name.

As joint inventor Murali's full name has now been provided on an executed declaration, the petition to waive the rules is unnecessary and will be dismissed as moot. This application need not be returned to this office for any further consideration under 37 CFR 1.183.

Receipt of the declaration filed with the petition is acknowledged.

The application is referred to Technology Center Art Unit 2162 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/21/2010

Applicant	: Ibrahim Cem Duruoz	: DECISION ON REQUEST FOR
Patent Number	: 6804746	: RECALCULATION of PATENT
Issue Date	: 10/12/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 10/005,204	: OF WYETH
Filed	: 12/03/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/05/2010

Applicant	: Ibrahim Cem Duruoz	: DECISION ON REQUEST FOR
Patent Number	: 7382970	: RECALCULATION of PATENT
Issue Date	: 06/03/2008	: TERM ADJUSTMENT IN VIEW
Application No	: 10/005,206	: OF WYETH
Filed	: 12/03/2001	:
		:

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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Alexandria, VA 22313-1450
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O'SHEA, GETZ & KOSAKOWSKI, P.C.
1500 MAIN ST.
SUITE 912
SPRINGFIELD, MA 01115

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of Becker et al. :
Application No. 10/005,208 : Decision on Petition
Filing Date: December 4, 2001 :
Attorney Docket No. Harman 6470 :

This is a decision on the petition under 37 CFR 1.181, filed May 10, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

This application was held abandoned for failure to respond on or before October 19, 2006, to the Office action of July 19, 2006, which set a three (3) month shortened statutory period for reply.

A Notice of Abandonment was mailed on May 3, 2007.

Petitioner asserts a reply in the form of an amendment was timely filed in response to the July 19, 2006 Office action. In support of the petition, petitioner has submitted a date-stamped postcard receipt, indicating the Office received an, "Amendment," on September 5, 2006. A copy of the reply accompanies the petition.

The original reply filed September 5, 2006, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded a reply was timely filed in the Patent and Trademark Office but not matched with the application file.

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

Technology Center Art Unit 2617 will be informed of the instant decision and the reply filed with the petition will be entered and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

MERCK AND CO, INC.
PO BOX 2000
RAHWAY, NJ 07065-0907

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In re Application of :
Hui et al. : DECISION DISMISSING
Application No. 10/005,210 : PETITION
Filed: December 4, 2001 :
Attorney Docket No. 12364.27USU1 :

This is a decision on the petition filed March 25, 2002, requesting that the above-identified application be accorded a filing date of December 4, 2001, with Figures 8 and 9a-c as part of the original disclosure.

On December 4, 2001, applicants filed the above-identified application. On March 20, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional), stating that the Office had received the reply of March 1, 2002, to the Notice to File Missing Parts mailed January 25, 2002. However, the reply did not include the basic filing fee, an executed oath or declaration, a surcharge, or Figure 8b as described in the specification. The Notice indicated that the period for response remained as set forth in the Notice to File Missing Parts and extensions of time were available.

On March 25, 2002, applicants filed, inter alia, the present petition, a $130.00 petition fee, and two (2) sheets of drawings containing Figures 8 and 9a-c. Applicants explained:

> The description of the Figures on page 5 in the specification is inaccurate. In fact, Figure 8 has only one illustration and Figure 9 has three illustrations (a-c). As further evidence, Applicants also provide page 13 of the specification that refers to Figure 8 on line 23, and page 14 that refers to the three different values illustrated in Figures 9(a)-9(c). Applicants respectfully submit no items were omitted in the filing of this application. No new matter has been added.

Petition dated March 25, 2002, p. 1.

It is obvious from the petition that no drawings were actually missing on December 4, 2001. Rather, the drawings of Figures 8 and 9a-c were simply mislabeled as a result of applicants' filing error. However, the Notice of Incomplete Reply mailed on March 20, 2002, was correct in stating that Figure 8b appeared to

have been omitted. Therefore, the requirement to submit omitted Figure 8b set forth in the Notice of Incomplete Reply was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

A preliminary amendment adding the proper labels to the mislabeled drawing figures should be filed prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2001, using the drawings filed on that date.

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

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

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

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AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Hui et al.	:	DECISION DISMISSING
Application No. 10/005,210	:	PETITION
Filed: December 4, 2001	:	
Attorney Docket No. 12364.27USU1	:	

This is a decision on the petition filed March 25, 2002, requesting that the above-identified application be accorded a filing date of December 4, 2001, with Figures 8 and 9a-c as part of the original disclosure.

On December 4, 2001, applicants filed the above-identified application. On March 20, 2002, the Office of Initial Patent Examination mailed a Notice of Incomplete Reply (Nonprovisional), stating that the Office had received the reply of March 1, 2002, to the Notice to File Missing Parts mailed January 25, 2002. However, the reply did not include the basic filing fee, an executed oath or declaration, a surcharge, or Figure 8b as described in the specification. The Notice indicated that the period for response remained as set forth in the Notice to File Missing Parts and extensions of time were available.

On March 25, 2002, applicants filed, inter alia, the present petition, a $130.00 petition fee, and two (2) sheets of drawings containing Figures 8 and 9a-c. Applicants explained:

> The description of the Figures on page 5 in the specification is inaccurate. In fact, Figure 8 has only one illustration and Figure 9 has three illustrations (a-c). As further evidence, Applicants also provide page 13 of the specification that refers to Figure 8 on line 23, and page 14 that refers to the three different values illustrated in Figures 9(a)-9(c). Applicants respectfully submit no items were omitted in the filing of this application. No new matter has been added.

Petition dated March 25, 2002, p. 1.

It is obvious from the petition that no drawings were actually missing on December 4, 2001. Rather, the drawings of Figures 8 and 9a-c were simply mislabeled as a result of applicants' filing error. However, the Notice of Incomplete Reply mailed on March 20, 2002, was correct in stating that Figure 8b appeared to

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Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

A preliminary amendment adding the proper labels to the mislabeled drawing figures should be filed prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 4, 2001, using the drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

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

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MAY - 6 2005

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Keith D. Allen
Serial No.: 10/005,211
Filed: December 4, 2001
Attorney Docket No.: R-325

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on March 4, 2005, requesting withdrawal of the holding of abandonment of the above-identified application based on non –receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a non-final Office action, setting a three-month statutory time period for reply, to applicants on April 22, 2004. On December 28, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicant states that the Office action of April 22, 2004 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicant never received the Office action. In view thereof, the Notice of Abandonment mailed December 28, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicant's petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

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

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

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

TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

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NOV 22 2004

OFFICE OF PETITIONS

In re Application
Gillies et al.
Application No. 10/005,212
Filed: December 4, 2001
Attorney Docket No. LEX-002C1

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "Application for Patent Term Adjustment under 35 U.S.C. § 154(b) and 37 C.F.R. § 1.705(b)," filed September 7, 2004. Applicants request that the initial determination of patent term adjustment be corrected from two hundred seventy-four (274) days to two hundred ninety-one (291) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the notice of allowance is two hundred ninety-one (291) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 8, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 274 days. The instant application for patent term adjustment was timely filed with payment of the Issue Fee. Applicants dispute the number of days reduced for the filing of their response to the Notice to File Missing Parts [illegible] Application mailed January 31, 2002. Applicants state that the [illegible] was filed via Express Mail deposited May 31, 2002. In [illegible] thereof, applicants submit a copy of their itemized return postcard. Thus, applicants contend that the reduction for this delay should be 31 days, not 4[illegible]

Applicants state that the patent issuing from this [illegible] subject to a terminal disclaimer.

Applicants argument is well-taken. A review of the file confirms that applicants' response to the Notice to File Missing Parts of Application mailed January 31, [illegible] record in the application with a date of receipt

May 31, 2002. This was outside of the three-month period under 37 CFR 1.704(b). However, the period of delay was thirty-one (31) days, not 48 days.

In view thereof, the correct Patent Term Adjustment at the time of mailing of the notice of allowance is 291 days (344 - (31 +22)).

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 Publishing Division for processing into a patent.

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

Kerry A Ferriter
per

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

Enclosure: Copy of REVISED PAIR screen

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Carella, Byrne, Bain, Gilfillan, Cecchi Stewart & Olstein
Five Becker Farm Road
Roseland, NJ 07068

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OCT 20 2005

OFFICE OF PETITIONS

In re Application of
Shimp et al.
Application No. 10/005,238
Patent No. 6,855,167
Filed: December 5, 2001
Attorney Docket No. 525400-208

: DECISION GRANTING PETITION

This decision is in response to patentees' "PETITION TO ADJUST TERM OF PATENT TERM EXTENSION" timely[1] filed on February 28, 2005 requesting that the Office adjust the PTA determination from a period of thirty-six (36) days to a determination of one hundred and twenty days.

Applicants' petition to adjust the PTA determination is GRANTED. The Office will adjust the PAIR determination to reflect a calculation of one hundred and twenty (120) days. The Office will also *sua sponte* issue a certificate of correction to adjust listed on the front of the patent from 36 days to 120 days.

Applicants assert that the Office erred in assessing a eighty-four day reduction for the submission of drawings after the mail date of the notice of allowance. Applicants assert that the reason for the submission was that the drawing was in response to the Office loss of such drawings. Applicants assert that the drawings submitted after notice of allowance was the same set of drawings that were submitted prior to notice of allowance.

Applicants' arguments are persuasive. Specifically, the Office notes that the drawings submitted after the mail date of the notice of allowance were the exact same drawings submitted prior to the notice of allowance and accordingly are not considered a failure to engage in reasonable efforts to conclude prosecution of the application under 37 CFR 1.704(c)(10). The Office had assessed the eighty-four (84) day reduction based on the period beginning on the date of the submission of such drawings (November 24, 2004) and ending on the date of issuance of the patent on February 15, 2005.

The Office had an administrative delay of 127 for failing to initially act upon the application within 14 months of the filing date. Applicants had failed to engage in reasonable efforts to conclude prosecution of the application for a period of seven days by failing to reply within three months as required under 37 CFR 1.704(b). Accordingly, the overall determination of PTA at the time of the issuance of the patent is 120 (127-7=120) days.

After the mailing of this Office action, the patented file will be forwarded to the certificate of corrections branch for the issuance of the certificate of correction.

---

[1]Patent issued on 2/15/2005.

The Office acknowledges receipt of the $200.00 fee for th submission of the petition to adjust the patent term.

Any questions related to this decision should be directed to Kery Fries 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATRICK G. BURNS
GREER, BURNS & CRAIN
SUITE 2500
300 SOUTH WACKER DRIVE
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Keiji Hayashi et al	:	
Application No. 10/005,259	:	ON PETITION
Filed: December 4, 2001	:	
Attorney Docket No. 2803.66027	:	

This is a decision on the petition, filed October 3, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on June 27, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2833 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
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Paper No. _____

Date : October 7, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Keiji Hayashi et al
Application No. :10/005,259
Filed :December 4, 2001

The above-identified application has been assigned Patent No. 6,956,318 and an issue date of October 18, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 18, 2005:

"All reference to Patent No. 6,956,318 to Keiji Hayashi et al of Japan for BACKLIGHT HAVING DISCHARGE TUBE, REFLECTOR AND HEAT CONDUCTION MEMBER CONTACTING DISCHARGE TUBE appearing in the Official Gazette of October 18, 2005 should be deleted since no patent was granted."

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

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

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PATRICK G. BURNS, ESQ.
GREER, BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DR.
CHICAGO, IL 60606

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JUN 28 2006
OFFICE OF PETITIONS

In re Application of :
Keiji Hayashi, et al. :
Application No. 10/005,259 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No.: 2803.66027 :

This is a decision on the petition, filed June 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated February 2, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 28, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Keiji Hayashi, et al.
Application No. : 10/005,259
Filed : December 4, 2001

The above-identified application has been assigned Patent No. 7,071,601 and an issue date of July 4, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 4, 2006:

> "All reference to Patent No. 7,071,601 to KEIJI HAYASHI, ET AL. of JAPAN for BACKLIGHT HAVING DISCHARGE TUBE, REFLECTOR AND HEAT CONDUCTION MEMBER CONTACTING DISCHARGE TUBE appearing in the Official Gazette of July 4, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 14

TAROLLI SUNDHEIM COVELL & TUMMINO LLP
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OH 44114

COPY MAILED

JAN 2 3 2004

OFFICE OF PETITIONS

In re Application of
Willi Wissel
Application No. 10/005,261
Filed: December 3, 2001
Attorney Docket No. TRW(ASG)5988

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

This is a decision on the petition, filed January 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 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.[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 3726 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 15

Date : January 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. 10/005,261**

Applicant(s) : Willi Wissel
Application No. : 10/005,261
Filed : December 3, 2001

The above-identified application has been assigned Patent No. 6,687,998 and an issue date of February 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 February 10, 2004:

"All reference to Patent No. 6,687,998 to Willi Wissel of Germany for METHOD OF PRODUCING A STEERING WHEEL SKELETON AND VEHICLE STEERING WHEEL appearing in the Official Gazette of February 10, 2004 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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JJGJR: 11-04

Paper No: __

MARK K. JOHNSON
PO BOX 510644
NEW BERLIN WI 53151-0644

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NOV 05 2004

OFFICE OF PETITIONS

In re Application of
Wolff, et al
Application No. 10/005,294
Filing Date: 5 December, 2001
Attorney Docket No. Mirus.003.06.1

DECISION ON PETITION

This is a decision on the petition filed on 26 August, 2004, to revive the instant application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(a) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 31 December, 2003, with reply due, absent extension of time on or before 31 March, 2004;
- the instant application went abandoned after midnight 31 March, 2004;
- Notice of Abandonment was mailed on 20 August, 2004;
- with the instant petition (and fee), Petitioner submitted the reply in the form of an amendment and made a showing of unavoidable 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).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unavoidable Delay

A grantable petition under 37 C.F.R. §1.137(a) requires a petition, fee, showing of unavoidable delay, reply, and a terminal disclaimer and fee if appropriate.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

As indicated above, Petitioner now has satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to Technology Center 1600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Jian Qin :
Application No. **10/005,299** : ON PETITION
Filed: **December 4, 2001** :
Attorney Docket No. **15,709** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 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 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 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3761 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

In re Application of:
QIN, JIAN
Serial No.: 10/005,299
Filed: Dec. 4, 2001
Docket: 15,709
Title: ABSORBENT COMPOSITES HAVING COOLING EFFECT

DECISION ON PETITION

This is a decision on the petition filed on Jun. 24, 2007 by which petitioner requests for a stay in the cancellation of the non-elected claims withdrawn from further consideration by the examiner in the restriction requirement dated Oct. 21, 2003. Claims 4, 5, 8, 22-26, 47, 53-82, 86 and 87 were withdrawn. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **GRANTED**.

The record shows that:

1) On Oct. 21, 2003, the examiner issued a restriction requirement between nine patentably distinct species. The examiner indicated that there were no generic claims.
2) On Mar. 22, 2004, the petitioner filed a response to the restriction requirement by electing species 1, with traverse. Petitioner indicated that claims 2, 3, 6, 17-21, 84 and 85 were readable on the elected species. In addition, petitioner clarified that claims 1, 7-16, 44-46, 83 and 88-97 were generic claims.
3) On May 3, 2005, the examiner issued a letter indicating that the response filed on Mar. 22, 2004 was not fully responsive to the restriction requirement because the response did not include a claim listing of all of the claims presented in the case and the proper status identifiers of all of the pending claims.
4) On Jun. 3, 2005, the petitioner filed an updated response to the restriction requirement of Oct. 21, 2003. Petitioner indicated that claims 2, 3, 6, 17-21, 84 and 85 were readable on the elected species. In addition, petitioner stated that claims 1, 7, 9-16, 44-46, 83 and 88-97 were generic claims. Petitioner indicated that claims 4, 5, 8, 22-43, 47-82, 86 and 87 were withdrawn.
5) On Oct. 5, 2005, the examiner issued a non-final Office action and maintained the restriction requirement. The examiner indicated that claims 4, 5, 8, 22-43, 47-82, 86 and 87 remained withdrawn from further consideration pursuant to 37 CFR 1.142(b).

6) On Dec. 22, 2005, the petitioner filed a response to the non-final Office action traversing the prior art rejections.
7) On Mar. 9, 2006, the examiner issued a final Office action and maintained the prior art rejections.
8) On Sep. 12, 2006, the petitioner filed an after final response.
9) On Sep. 26, 2006, the examiner issued a notice of abandonment because the after final response was filed after the expiration of the period set for reply including a total extension time of 3 months.
10) On Feb. 28, 2007, after a petition was granted to revive the application from abandonment, the applicant filed a Request for Continued Examination of the application
11) On Apr. 11, 2007, the examiner issued a non-final Office action and indicated that claims 4-5, 8, 22-43, 47-82, 86 and 87 remained withdrawn from further consideration. In addition, the examiner stated on page 2 of the non-final Office action that "A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP 821.01".
12) On Jun. 24, 2007, the petitioner filed the current petition requesting a stay in the cancellation of the non-elected claims that were withdrawn from further consideration in the restriction requirement.

Discussion and Analysis

A review of the record reveals that the examiner indicated in the non-final Office action dated Apr. 11, 2007 that "A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP 821.01". However, the application was not under final rejection at the time the non-final Office action dated Apr. 11, 2007 was issued. Therefore, petitioner was not required to cancel the non-elected claims or take other appropriate action in response to the non-final Office action.

For petitioner's benefit, according to MPEP 821.04(a)[1], a requirement for restriction should be withdrawn when a generic claim is allowable and any previously withdrawn claim depends from or otherwise requires all the limitations thereof.

In addition, as indicated in the restriction requirement dated Oct. 21, 2003, upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in independent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

[1] Where restriction was required between independent or distinct products, or between independent or distinct processes, and all claims directed to an elected invention are allowable, any restriction requirement between the elected invention and any nonelected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn. For example, **a requirement for restriction should be withdrawn when a generic claim, linking claim, or subcombination claim is allowable and any previously withdrawn claim depends from or otherwise requires all the limitations thereof. Claims that require all the limitations of an allowable claim will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104**. Claims that do not require all the limitations of an allowable claim remain withdrawn from consideration. However, in view of the withdrawal of the restriction requirement, if any claim presented in a continuing application includes all the limitations of a claim that is allowable in the parent application, such claim may be subject to a double patenting rejection over the claims of the parent application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971).

Petitioner's statement on page 1 of the petition that "The Applicant provisionally elected Species 1 including claims 2, 3, 6, 17-21, and 84-85. The Applicant also maintained claims 7-16, 44-46, 48-50, 83 and 88-97 because these claims did not fall within any of the Examiner's species, and in fact are generic to most of such species." is noted. However, there is a discrepancy in what petitioner states as being the generic claims because in the response to restriction requirement dated Jun. 3, 2005, the petitioner stated "That is, Applicant elects claims 2, 3, 6, 17-21, and 84-85 for prosecution in the present application. In addition, Applicant also chooses to pursue claims 1, 7, 9-16, 44-46, 83, and 88-97". The discrepancy lies in the fact that claim 8 was not indicated by petitioner as being a generic claim in the response to restriction requirement. Instead, petitioner indicated that claim 8 was a withdrawn claim (see amendment to the claims included with the response to restriction requirement filed Jun. 3, 2005). The examiner examined on the merits, the claims which petitioner indicated as reading on the elected species. In addition, the examiner examined on the merits, claims 1, 7, 9-16, 44-46, 83 and 88-97 that the petitioner indicated as being generic claims.

Therefore, for the reasons outlined above, petitioner's request for a stay in the cancellation of the non-elected claims that were withdrawn from further consideration by the examiner in the restriction requirement dated Oct. 21, 2003 is hereby granted.

Conclusion

For the reasons outlined above, petitioner's request for a stay in the cancellation of the non-elected claims is granted.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3761 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.

The petition is GRANTED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

Gregory R. Muir
Reflectivity, Inc.
350 Potrero Avenue
Sunnyvale, CA 94085

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Satyadev R. Patel, et al. :
Application No. 10/005,308 :
Filed: December 3, 2001 :
Attorney Docket No. P19-US :

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2002 and supplemented on November 21, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed March 20, 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 May 21, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $980 extension of time submitted with the petition on November 1, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 50-1516.

The Change of Correspondence Address has been accepted and recorded.

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

The application file is being forwarded to 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

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)
6,600,128	2003-07-29	10005320	2001-12-07	3214

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-03-04
Name	Bruce H. Troxell	Registration Number	26592

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6600128
Issue Date: July 29,2003
Application No. 10005320
Filed: December 7,2001
Attorney Docket No. VX012391

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

This is a decision on the electronic petition, filed March 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 March 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 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

ARENT FOX
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Miwa Kozawa et al :
Application No. 10/005,347 : ON PETITION
Filed: December 7, 2001 :
Attorney Docket No. 100021-00065 :

This is a decision on the petition under 37 CFR 1.313, filed May 9, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114.

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

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

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Paper No. 10

STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO CA 94303

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of :
GRAVES et al. :
Application No. 10/005,383 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. APLE.P0015 :

This is a decision on the petition under 37 CFR 1.137(b)/(f), filed July 21, 2003, to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application.

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in the PCT Office designating foreign countries on December 2, 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.

Therefore, pursuant to the provisions of 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The Office has processed the request to rescind the previous nonpublication request. Furthermore, the present application published on June 5, 2003.

The application file is being forwarded to Technology Center 2623.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 13 2006

Director's Office
Office of Patent Publication

FRANK C. NICHOLAS
CARDINAL LAW GROUP
1603 ORRINGTON AVENUE, SUITE 2000
EVANSTON IL 60201

In re Application of :
NORWOOD, RODNEY EARL :
Application No. 10/005,391 :
Filed: December 5, 2001 :
Attorney Docket No. 7780/16 (P-00303) :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment under 37CFR 1.181, received in the United States Patent & Trademark Office (USPTO) on December 7, 2005. Petitions received on March 3, 2006 and September 27, 2006 have also been considered.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO (2) MONTHS from the mail date of this decision.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed July 15, 2005. The Notice of Abandonment, mailed on November 29, 2005 indicates, "The submitted fee of $1,400 is insufficient. A balance of $300 is due for. The issue fee required by 37 CFR 1.18 is $1,400. The publication fee, if required by 37 CFR 1.18(d) is $300."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on September 27, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 50-1713. On September 28, 2005, when an attempt was made by the Office of Finance 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 inquires 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 inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 163.

Nina Motley

/NM/ Nina D. Motley
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

Frank C. Nichols
Cardinal Law Group
1603 Orrington Avenue, Suite 2000
Evanston, IL 60201

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MAY 15 2007

OFFICE OF PETITIONS

In re Application of:
Rodney Earl Norwood
Application No.: 10/005,391
Filed: December 05, 2001
Atty's Docket No.: 7780/16 (P-00303)

DECISION ON PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed November 22, 2006.

The petition is **GRANTED**.

On November 13, 2006, applicant was mailed a decision dismissing applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181.

On November 22, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay; and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payments are accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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P.O. BOX 2550
SALT LAKE CITY UT 84110

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Alan G. Wood et al :
Application No. 10/005,402 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. 2825.10US(90-0051.12) :

This is a decision on the petition, filed September 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2829 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUL 11 2003

OFFICE OF PETITIONS

In re Application of
Wood, et al.
Application No. 10/005,402
Filed: February 1, 2002
Atty. Dkt. No.: 2825.10US
(90-0051.12)

: ON PETITION

This decision in response to the petition filed February 1, 2002 and resubmitted March 19, 2003 in response to the Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed December 26, 2001. This response is being treated as a petition to accord the above-referenced application a filing date of December 5, 2001 instead of the presently accorded filing date of February 1, 2002.

The application was deposited December 5, 2001. The Notice mailed December 26, 2001 by the Office of Initial Patent Examination notified applicant that the application had been accorded a filing date but that Figure 4 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner's response to the Notice was received by the Office on February 1, 2002. The Office apologizes for the delay in addressing this matter which was not brought to the attention of the Office of Petitions until March 19, 2003.

Petitioner argues the application as filed included Figure 4 and has included as proof of mailing and proof of receipt of the item in question a return postcard date stamped by the Office on December 5, 2001. The return postcard indicates, among other items, the receipt of three sheets of formal drawings containing 6 figures. Petitioner provided a copy of the omitted Figure 4 on February 1, 2002.

A review of the official application reveals that petitioner is correct in that the Office did in fact receive three sheets of formal drawings containing 6 figures (specifically, Figures 1A, 1B, 1C, 2A, 2B, and 3). The Office did not receive a copy of Figure 4 as referenced in the specification until February 1, 2002. Applicant is therefore entitled to a filing date of February 1, 2002, the date of receipt of the omitted figure.

Accordingly, for the reasons set above, the petition to accord the above-identified application a filing date of December 5, 2001 is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted.

This application will be retained in the Office of Petitions for **TWO (2) MONTHS**. If no renewed petition is received within that time period, this application will be forwarded to the Publications Division for processing into a patent with a filing date of February 1, 2002.

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

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUN 2 3 2004

OFFICE OF PETITIONS

In re Application of :
Wood, et al :
Application No. 10/005,402 : ON PETITION
Receipt Date: December 5, 2001 :
Docket No.: 2825.10US (90-0051.12) :

This is a decision on the renewed petition filed September 10, 2003, requesting that the application a filing date of December 5, 2001 instead of the presently accorded filing date of February 2, 2002. This is also a decision on the petition to withdraw from issue.

The petition to accord the above-identified application a filing date of December 5, 2001 is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The application was deposited December 5, 2001. The Notice mailed December 26, 2001 by the Office of Initial Patent Examination notified applicant that the application had been accorded a filing date but that Figure 4 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition

fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

A response to the Notice was received February 1, 2002. A decision on petition was mailed July 11, 2003.

Petitioner continues to argue that the return postcard date stamped by the Office on December 5, 2001 supports petitioner's contention that the application as filed included Figure 4.

Petitioner's attention is again drawn to the fact that the return postcard indicates, *inter alia*, the receipt of three sheets of formal drawings containing 6 figures. Sheet one contains Figures 1A, 1B, and 1C. Sheet 2 contains Figures 2A and 2B. Sheet 3 contains Figure 3. Hence, the Office did receive three sheets of drawings containing a total of 6 figures. As indicated, Figure 4 does not appear on any of the drawing sheets received. Therefore, the postcard does not establish the receipt of Figure 4 in the Office on December 5, 2001.

However, petitioner has submitted an amendment canceling reference to Figure 4. In view of the submission of the amendment canceling reference to the figure in controversy and the examiner of record's indication that the amendment may be entered, applicant is entitled to a filing date of December 5, 2001.

Hence, Figure 4, submitted on February 1, 2002, will not be entered into the record.

An alternative petition to withdraw from issue was included with the instant renewed petition for filing date. As the instant application has been accorded the requested filing date, albeit, without the inclusion of Figure 4, the petition to withdraw from issue is deemed unnecessary.

Accordingly, the petition to withdraw from issue is **DISMISSED AS MOOT**.

Petitioner is entitled to a refund of the $130.00 petition fee for a petition to withdraw from issue fee. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of

December 5, 2001 **without** the entry of Figure 4. Thereafter, the application file is to be forwarded to Group Art Unit 2829 for formal entry of the amendment canceling reference to Figure 4.

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

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JUL 1 6 2002

OFFICE OF PETITIONS

In re Application of
Wang, *et al.*
Application No. 10/005,465
Filed: December 3, 2001
Attorney Docket No. SMAR-019

DECISION GRANTING PETITION

This is a decision on the April 23, 2002 petition requesting that the above-identified application be treated as though it were filed with drawings on December 3, 2001 and that December 3, 2001 be treated as the filing date of this application.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on December 3, 2001. However, on March 21, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a "Notice Of Incomplete Nonprovisional Application" (hereinafter "notice") noting that the application had not been granted a filing date due to Applicant's failure to include the drawings required under 35 U.S.C. 113. The notice further stated that the filing date would be the date of receipt of the omitted specification unless a petition was filed that successfully showed that the missing item(s) had been included with the application.[1]

Petitioner timely responded with the April 23, 2002 filing of this petition. The petition alleges that no drawings are needed, as one or more claims are for a method or process. Petitioner requests that the application, without drawings, be accorded a filing date of December 3, 2001.

It is USPTO 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).[2] A review of the record reveals that claims 1-28 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. Accordingly, the application, as filed, is entitled to a filing date.

In view of the above, it is concluded that the complete application was filed on December 3, 2001. Accordingly, *this petition is* ***granted***.

The March 21, 2002 "Notice of Incomplete Nonprovisional Application" was sent in error and is hereby vacated.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 3, 2001.

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[1] The notice also noted that the basic statutory filing fee was missing, as were additional claim fees and the oath or declaration.

[2] MPEP 601.01(f).

The $130.00 petition fee paid with this petition was unnecessary. Accordingly, the fee will be refunded to Petitioner's deposit account (da#50-0815).

Any questions regarding this decision should be directed to Petitions Attorney Scott M. Ledford at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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SEP 1 0 2002

OFFICE OF PETITIONS

In re
James Leroy Snell
Reissue Application No. 10/005,483
Filing Date: November 9, 2001
Reissue of Patent No. 5,982,807
Original Issue Date: November 9, 1999
Attorney Docket No. 125.003USR1

DECISION REFUSING STATUS UNDER §1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed July 5, 2002.

The petition is DISMISSED.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified reissue application of patent No. 5,982,807 (Issued November 9, 1999) was filed on November 9, 2001, with an unexecuted reissue declaration[1]; missing both the written consent of assignee with statement under 37 CFR 3.73(b),and the statutory basic filing fee; and with additional claim fees due. Accordingly, on February 8, 2002, the Office mailed a "Notice to File Missing Parts of Reissue Application," requiring the missing items, along with the surcharge under § 1.16(e) for late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Applicant replied with the instant petition under § 1.47; payment of the petition fee by check and of the late surcharge by general authorization to charge a Deposit Account; a written consent of assignee and a declaration executed by Paul A. Bernkopf, Corporate Vice President, on behalf of assignee Intersil. This reply was made timely by an accompanying petition for an extension for response within the third month (and fee). Rule 47 applicant asserts that status under § 1.47 is

---

[1]37 CFR 1.172 (a) provides that:

A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of §3.73(b) of this chapter.

proper because sole inventor Snell refuses to join in the application. In support thereof, applicants submitted declarations of patent attorney Paul A. Bernkopf and of paralegal Elizabeth A. Bauer. Documentary evidence establishing that the application papers were presented to inventor Snell by Federal Express on May 17, 2002 accompanied the declaration. Further paralegal Bauer specifically declared that inventor Snell had acknowledged receipt of the application papers and that by telephone on June 19, 2002 had expressly refused to sign the declaration.

A grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. § 1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

The petition included payment of the petition fee; a statement of the last known address of the non-signing inventor; a copy of the assignment of the invention to rule 47 applicant; and a statement by Attorney Mark Kelly that the filing of the reissue application is necessary to preserve the rights of the parties hereto, and that irreparable harm would result to rule 47 applicant if the petition was not granted. Attorney Kelly's statement was supported by the declaration of patent attorney Paul Bernkopf. Rule 47 applicant has thereby met requirements (4) - (7) above.

However, the petition is not grantable because requirements (1)-(3) have not been satisfied. The declaration submitted is not acceptable. A reissue declaration must comply with the requirements of § 1.63 and § 1.175. The declaration submitted only complies with § 1.63. A new declaration executed by the assignee including the title of the person signing on behalf of the assignee is required. Although rule 47 applicant has provided evidence that non-signing sole inventor Snell has refused to join in the filing of the above-identified application after having been presented with the application papers, this evidence has been rendered insufficient due to the deficiency in the declaration. It cannot be concluded that inventor Snell has refused to join in the reissue application where the wrong declaration has been presented for signature. A showing that inventor Snell has refused to join in the application after having been presented with the proper reissue declaration is required.

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

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

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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FEB 2 8 2003

OFFICE OF PETITIONS

In re
James L. Snell, Carl F. Andren and
Leonard Victor Lucas
Reissue Application No. 10/005,483
Filing Date: November 9, 2001
Reissue of Patent No. 5,982,807
Original Issue Date: November 9, 1999
Attorney Docket No. 125.003USR1

DECISION ACCORDING STATUS
UNDER § 1.47(a)

This is a decision on the "Renewed Petition under 37 CFR 1.47(b)" resubmitted by facsimile transmission on February 10, 2003. Petitioner has submitted *prima facie* evidence in the form of a stamped return postcard receipt that this renewed petition, though not of record in the application, was timely filed on December 2, 2002[1].

The petition is GRANTED.

The above-identified reissue application of patent No. 5,982,807 (Issued November 9, 1999) was filed on November 9, 2001, with an unexecuted reissue declaration; missing both the written consent of assignee with statement under 37 CFR 3.73(b),and the statutory basic filing fee; and with additional claim fees due. In response to a "Notice to File Missing Parts of Reissue Application" mailed February 8, 2002, petitioner timely filed the initial petition under § 1.47(b), asserting that status under § 1.47 is proper because sole inventor Snell refuses to join in the application. The petition was dismissed for failure to submit an acceptable declaration in compliance with § 1.175; and consequently, failure to show that inventor Snell refused to join in the application after having been presented with a proper reissue declaration for signature[2].

---

[1] A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See MPEP 503. Petitioner's postcard is date-stamped December 2, 2002 by the USPTO, and specifically itemizes as being filed a renewed petition under § 1.47 (and supporting documentation) and a one-month extension of time. (Finance records show payment of the extension of time fee in December of 2002).

[2] A grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. § 1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

On instant renewed petition, petitioner submitted a reissue declaration executed by joint inventors Carl Andren and Leonard Lucas. It is preliminarily noted that this petition is now considered under 37 CFR 1.47(a). Filing under 37 CFR 1.47(b) and 35 U.S.C. 118 is permitted only when no inventor is available to make application. In this instance, inventors Andren and Lucas are available.

A grantable petition under § 1.47(a) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63 and 1.64 or 1.175; (2) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (3) a statement of the last known address of the non-signing inventor, and (4) the petition fee. On initial petition, petitioner satisfied requirements (3) and (4).

On instant renewed petition, petitioner satisfied requirements (1) and (2). The declaration submitted on instant renewed petition has been reviewed and found in compliance with §§ 1.175 and 1.47(a). An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated. Accordingly, the instant declaration is accepted as being executed by available joint inventors Andren and Lucas on behalf of themselves and on behalf of non-signing inventor Snell.

Furthermore, with the instant renewed petition, petitioner submitted proof that non-signing inventor Snell has refused to join in this reissue application after having been presented with the application papers (including the proper reissue declaration). This evidence includes the first hand declarations of Elizabeth Bauer, detailing the presentation of the reissue declaration and application papers to non-signing inventor Snell; and of David Fogg, detailing inventor Snell's subsequent refusal to sign the reissue declaration. Copies of the letters (and mailing labels) transmitting by Federal Express and requesting presentation by hand-delivery (process server) of the application papers to non-signing inventor Snell; and a declaration of the process server, attesting to having served inventor Snell with the papers were made a part of the statements.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

The application file is being forwarded to Technology Center 2631 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
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

JAMES LEROY SNELL
2695 Lemon Street NE
Palm Beach, FL 32905-4831

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FEB 2 8 2003

OFFICE OF PETITIONS

In re
James L. Snell, Carl F. Andren and
Leonard Victor Lucas
Reissue Application No. 10/005,483
Filing Date: November 9, 2001
Reissue of Patent No. 5,982,807
Original Issue Date: November 9, 1999
Attorney Docket No. 125.003USR1

LETTER

Dear Mr. Snell:

You are named as a joint inventor in the above-identified United States reissue application filed under the provisions of 35 U.S.C. 256 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a reissue patent be granted 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 and 1.175.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions

FOGG SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

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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DIW Jun-06

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

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JUN 13 2006
OFFICE OF PETITIONS

In re Application of :
Snell et al. : DECISION ON PETITION
Application No. 10/005,483 :
Filed: 9 November, 2001 :
Atty Docket No. 56162.000489 :

This is a decision on the petition under 37 CFR 1.47(a) filed on 17 April, 2005, which is being treated as a petition under 37 CFR 1.183, seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.183."

REVIEW OF FACTS

1. On 9 November, 2001, the application was filed as an application for reissue of U.S. Patent No. 5,982,807.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

2. On 28 February, 2003, a renewed petition under 37 CFR 1.47(b) filed on 10 February, 2003, was granted with respect to joint inventors James Leroy Snell, Carl F. Andren, and Leonard Victor Lucas.

3. On 29 April, 2005, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

4. On 29 September, 2005, a Notice of Appeal was filed, accompanied by a two (2) month extension of time, and an amendment after final rejection.

5. On 22 November, 2005, an Advisory Action was mailed, stating that the period for reply expired five (5) months after the mailing of the final Office action.

6. Also on 22 November, 2005, an Interview Summary was mailed, setting a one (1) month period for reply.

7. On 31 March, 2006, an amendment was filed, accompanied by a supplemental declaration naming only inventor Snell.

8. On 17 April, 2006, the present petition was filed, stating that previously signing inventor Lucas could not be located to sign the supplemental declaration.

9. On 29 April, 2006, an amendment paper was filed. The amendment paper included an authorization to charge all required fees, that is appropriate for treatment as a constructive petition for an extension of time as needed for a timely submission. See 37 CFR 1.136(a)(3).

10. On 5 May, 2006, the examiner issued an *Ex parte Quayle* Office action, setting forth the need for a supplemental declaration (which is the subject of the instant petition).

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

Petitioners state that a copy of the supplemental declaration under 37 CFR 1.175 was sent to joint inventor Lucas by Federal Express; however, petitioners were informed that the address provided for Lucas was not correct.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires." The facts presented on the record do not adequately establish an extraordinary situation. Petitioners have not sufficiently established special circumstances of equities that would require suspension of the rules in the interests of justice.

This application bears an original Declaration executed by joint inventor Lucas and Andren, and 37 CFR 1.47(a) status was granted with respect to joint inventor Snell on 28 February, 2003. Thus, the provisions of 37 CFR 1.47 do not apply in this instance. Nevertheless, it is appropriate to apply the principles for a showing under 37 CFR 1.47 to the situation at hand. Since joint inventor Lucas signed the original declaration, petitioners must show that efforts were made to obtain inventor Lucas' signature on the supplemental declaration.

Petitioners' showing is deficient in that proof of diligent efforts to locate the non-signing inventors has not been made.[2]

Specifically, the showing of record is that the declaration and application papers were sent to inventor Lucas at "**17**06 SE Sedgwick." However, the street address listed for him on the Kitsap County tax assessor's statement is "**71**06 SE Sedgwick." As such, it is clear that the digits of the street address were transposed, and that an incorrect address was used. In order to complete the showing, petitioners must re-send the declaration and application papers to the correct address, with a request that joint inventor Lucas sign and return the supplemental declaration. If joint inventor Lucas refuses to sign the declaration, petitioners should provide a copy of the cover letter transmitting the supplemental declaration to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, no copy of the reissue declaration listing the names of all of the inventors and signed by the signing inventors has been provided. A proper reissue declaration in compliance with 37 CFR 1.175 should be provided with any renewed petition.

CONCLUSION

1. The petition is dismissed. As a petition under 37 CFR 1.183 to waive 1.175 is required rather than a petition under 37 CFR

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[2] MPEP 409.03(d).

1.47, the petition fee due is $400.00. The balance due of $200.00 will be charged to counsel's deposit account.

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

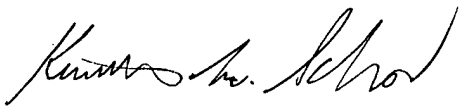
By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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

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

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Snell et al.	:	DECISION ON PETITION
Application No. 10/005,483	:	
Filed: 9 November, 2001	:	
Atty Docket No. 56162.000489	:	

This is a decision on the renewed petition under 37 CFR 1.47(a) filed on 7 August, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED.**

REVIEW OF FACTS

1. On 9 November, 2001, the application was filed as an application for reissue of U.S. Patent No. 5,982,807, naming James Leroy Snell, Carl F. Andren, and Leonard Victor Lucas as joint inventors.

2. On 28 February, 2003, a renewed petition under 37 CFR 1.47(a) filed on 10 February, 2003, was granted with respect to joint inventor James Leroy Snell, permitting joint inventors Carl F. Andren and Leonard Victor Lucas to sign on behalf of non-signing inventor James Leroy Snell.

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[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

3. On 29 April, 2005, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

4. On 29 September, 2005, a Notice of Appeal was filed, accompanied by a two (2) month extension of time, and an amendment after final rejection.

5. On 22 November, 2005, an Advisory Action was mailed, stating that the period for reply expired five (5) months after the mailing of the final Office action.

6. Also on 22 November, 2005, an Interview Summary was mailed, setting a one (1) month period for reply.

7. On 31 March, 2006, an amendment was filed, accompanied by a supplemental declaration naming only inventor Snell.

8. On 17 April, 2006, a petition was filed, stating that previously signing inventor Lucas could not be located to sign the declaration.

9. On 31 June, 2006, the petition was dismissed because petitioners had not provided sufficient proof of diligent efforts to locate the non-signing inventor.

10. On 7 August, 2006, the present renewed petition was filed, along with a supplemental reissue declaration, signed by signing inventor Carl F. Andren. Petitioners again assert that joint inventor Leonard Victor Lucas cannot be located to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183 TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Leonard Victor Lucas on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Lucas on the supplemental declaration filed on 7 August, 2006.

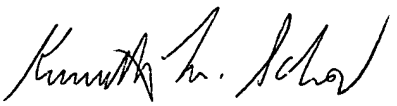
CONCLUSION

1. The petition is granted.

2. The application is being referred to Technology Center Art Unit 2611 for further processing.

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTHEW J. BOOTH & ASSOCIATES,
PLLC
P.O. BOX 50010
AUSTIN, TX 78763-0010

In re application of:
Gilbert Amine
Application No. 10/005,485
Filed: November 08, 2001
For: SYSTEM AND METHOD FOR MEASURING AND ENHANCING THE QUALITY OF VOICE COMMUNICATION OVER PACKET-BASED NETWORKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on May 19, 2005.

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated with customer number 23309 have been withdrawn.

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Norman Klugman
Rochelle Communications, Inc.
P.O. Box 141189
Austin, TX 78714

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAILED

OCT 11 2002

Technology Center 2100

In re Application of:
Mahesh Subramanian, et al.
Application No. 10/005,507
Filed: November 7, 2001
For: SYSTEM AND METHOD FOR DISPLAYING USAGE INFORMATION IN A DATA NETWORK

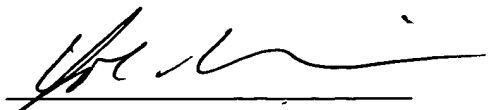
DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed August 21, 2002.

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

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

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



FOR 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
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

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OFFICE OF PETITIONS

In re Application of :
Andrea Leone-Bay et al. :
Application No. 10/005,511 :
Filed: November 7, 2001 :
Attorney Docket Number: 1946/1B861-US2 :
Title: COMPOUNDS AND COMPOSITIONS :
FOR DELIVERING ACTIVE AGENTS :

DECISION ON PETITIONS UNDER
37 C.F.R. §§1.78(A)(3) and 1.78(A)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 11, 2005, 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 08/414,654, filed on March 18, 1997, PCT application PCT/US96/04580, filed on April 1, 1996, and provisional application number 60/003,111, filed on September 1, 1995, as set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional or international 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 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The amendment filed April 11, 2005 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

The amendment to the Application Data Sheet (ADS) fails to indicate the relationship between the present application and PCT application PCT/US96/04580, as well as the relationship between PCT application PCT/US96/04580 and 08/414,654

Any reply 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 reply should include a cover letter entitled "Renewed Petitions Under 37 C.F.R. §§1.78(A)(3) and 1.78(A)(6)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[1], hand-delivery[2], or facsimile[3].

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

3 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES 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.

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

DARBY & DARBY P.C.
805 Third Avenue
New York NY 10022

In re Application of	:	
Andrea Leone-Bay et al.	:	
Application No. 10/005,511	:	DECISION ON RENEWED
Patent No. 6,960,355	:	PETITIONS UNDER 37 C.F.R.
Issue Date: November 1, 2005	:	§§1.78(A)(3) AND 1.78(A)(6)
Filed: November 7, 2001	:	
Attorney Docket Number:	:	
1946/1B861-US2	:	
Title: COMPOUNDS AND	:	
COMPOSITIONS FOR DELIVERING	:	
ACTIVE AGENTS	:	

This is a decision on the renewed petitions under 37 C.F.R. §§ 1.78(a)(3) and 1.78(a)(6), filed October 4, 2005, 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 08/414,654, filed on March 18, 1997, PCT application PCT/US96/04580, filed on April 1, 1996, and provisional application number 60/003,111, filed on September 1, 1995, as set forth in the concurrently filed supplemental Application Data Sheet (ADS).

The Office regrets the period of delay in issuing this decision.

The renewed petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §§ 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 C.F.R. §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §§ 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 C.F.R. §§ 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 C.F.R. §§ 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 information where there is a question whether the delay was unintentional.

The original petition was submitted on April 11, 2005 and was dismissed via the mailing of a decision on August 4, 2005, for failure to comply with item (1) above. More specifically, the amendment to the Application Data Sheet (ADS) failed to indicate the relationship between the present application and PCT application PCT/US96/04580, as well as the relationship between PCT application PCT/US96/04580 and 08/414,654.

With this renewed petition, Petitioner has submitted an ADS which states the relationship between these applications. However, the ADS has not been signed. Petitioner will note that 37 C.F.R. §1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. §1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. §1.33(b).

Moreover, the priority claim which is present on the ADS contains a benefit claim to International Application No. PCT/US96/04580, published as WO 96/30036 on October 3, 1996." This reference to the International Application is improper, in that it fails to include the relationship, international application number and international filing date (as opposed to the publication date). See Rule §1.78(a)(2)(i).

Furthermore, the issue fee was submitted on April 11, 2005, and one month after the filing of this renewed petition, the present application issued as U.S. Patent No. 6,960,355.

M.P.E.P. §201(III)(F)(B) sets forth, in pertinent part:

> In addition to the petition under 37 C.F.R. 1.78 and the amendment or ADS, to add a benefit claim it may be necessary for applicant to file one of the following, depending on the status of the application...a request for a certificate of correction under 37 C.F.R. 1.323, if appropriate (see MPEP §§ 1402 and 1481), if the application has issued as a patent.

The present application has issued as a patent since the filing of this renewed petition. Therefore, a certificate of correction will be required, pursuant to the portion of the M.P.E.P. cited immediately above, (along with the $100 fee) as a condition for granting the petition under 37 C.F.R. §1.78(a)(3).

Any response to this decision reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §§1.78(a)(3) and 1.78(a)(6)". This is not a final agency action within the meaning of 5 U.S.C 704.

The response should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to Paul Shanoski at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Ira Lazarus
Supervisory Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
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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ALEXANDRIA, VA 22313-1450
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Paper No. 11

WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI
TEN POST OFFICE SQUARE
BOSTON, MA 02109

FEB 13 2004

In re Application of:
James Joseph Brogle et al.
Serial No.: 10/005,513
Filed: November 8, 2001
For: MONOLITHICALLY INTEGRATED PIN DIODE AND SCHOTTKY DIODE CIRCUIT AND METHOD OF FABRICATING SAME

DECISION ON PETITION

This is a decision on the petition filed December 11, 2003, via facsimile transmission, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is GRANTED.

A non-final Office action was mailed April 1, 2003, setting a three-month shortened statutory period for filing a response. In the apparent absence of a response, the application was held abandoned and a Notice of Abandonment was mailed November 18, 2003.

Petitioner asserts that a response was timely filed. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment Under 37 C.F.R. 1.111" which bears a Certificate of Transmission under 37 C.F.R. § 1.8(a) dated July 1, 2002, 2) a copy of an Information Disclosure Statement (IDS), 3) a copy of the sending unit's report confirming successful transmission of the response on July 1, 2003, and 4) a statement in support of the petition under 37 C.F.R. § 1.8(b) signed by attorney William S. Francos.

That the file record includes the IDS filed July 1, 2003 but does not include the originally submitted Amendment.

That the petition satisfies the conditions for accepting a response filed using a certificate of transmission under 37 C.F.R. § 1.8(a) but lost after being received by the USPTO. Accordingly, the petition is granted.

That the copy of the amendment submitted on December 11, 2003, with the petition is accepted since the USPTO apparently lost the response originally submitted.

The application filed is being forwarded to the technical support staff for entry of the amendment. From there, it will be returned to the examiner for further examination.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Roger A. Heppermann
Marshall Gerstein & Borun LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

MAILED
FROM DIRECTORS OFFICE
NOV 0 9 2005
TECHNOLOGY CENTER 3600

In re Application of
Philip W. Eggleston
Application No. 10/005,534
Filed: November 8, 2001
For: ROTARY VALVE APPARATUS AND ASSOCIATED METHODS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to revive an abandoned application, which has been taken as a petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on July 23, 2004. There is no fee for a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record reveals that a Notice of Abandonment was mailed on July 8, 2004 because of applicant's failure to respond to the Office action mailed November 13, 2003, that set a three-month shortened statutory period for response.

The petition indicates that a response was filed by mail on February 12, 2004. In support thereof, petitioner submits a copy of a response, which includes a Certificate of Mailing signed by Roger A. Heppermann, and dated February 12, 2004. Petitioner further includes a copy of a postcard receipt dated February 17, 2004. Since the postcard receipt has a date stamp outside the period for reply, which ended at midnight on February 14, 2004 (February 13, 2004 falling on a Sunday), and no extensions of time were purchased, applicant cannot rely on the postcard receipt and must rely on the Certificate of Mailing, dated February 12, 2004, to show that the response was timely filed.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) by the person who signed the certificate attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of sending the original response by mail on the date indicated on the certificate, by the person who signed the certificate, in this instance Roger A. Heppermann.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181."

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rwg: 10/05/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Roger A Heppermann
Marshall Gerstein & Borun LLP
6300 Sears Tower
233 South Wacker Drive
Chicago IL 60606-6357

COPY MAILED

JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Philip W. Eggleston :
Application No. 10/005,534 : DECISION ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. EGGL-00001D2 :

This is a decision on the renewed petition under 37 CFR 1.181, filed January 6, 2006, to withdraw the holding of abandonment for the above-identified application.

On November 13, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on July 8, 2004.

In the present petition, petitioner asserts that he filed a timely response to the nonfinal Office action in the form of an amendment with a certificate of mailing dated February 12, 2004. In support of his assertion, petitioner submits the following: (1) a copy of a previously mailed amendment, containing a certificate of mailing dated February 12, 2004; (2) a copy of a portion of a docketing log; (3) a copy of the front of the file kept by the docketing department of the law office; and (4) a statement under 37 CFR 1.8(b)(3).

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.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on February 12, 2004. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely submitted on February 12, 2004.

The matter is being referred to the Technology Center 3673.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. Any questions regarding the status of the application or the examination process should be directed to the Technology Center.

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

Mailed: APR 18 2005

dss
Paper Number

In re application of :
Matthew R.Hyre et al. : DECISION ON
Serial No. 10/005,567 : PETITION
Filed: December05, 2001 :
For: GLASS CONTAINER FORMING MACHINE :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed January 07, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of, December 16, 2004 for failure to timely file a proper reply to the Office letter mailed April 21, 2004 be withdrawn since the applicants did timely file a proper reply on August28, 2004. (Copies of the papers filed August 28, 2004 are attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on August 28, 2004 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on August 28, 2004. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed April 21, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed August 28, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Emhart Glass Research, Inc.
89 Phoenix Avenue
P.O. Box 1229
Enfield, CT 06083-1229

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAIL

AUG 0 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Henderson et al.	:	
Application No. 10/005,596	:	DECISION ON REQUEST TO
Filed: November 7, 2001	:	WITHDRAW AS ATTORNEY
For: SWITCH-BASED NETWORK PROCESSOR	:	

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 15, 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 are granted the request for withdraw.

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: ALEXA LE
INTEL CORPORATION
SANTA CLARA FOUR BUILDING (SC4)
625 WALSH AVE.
SANTA CLARA, CA 95052-8119

Atty: Kerry Tweet
Tel (503) 684, 6200

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 14

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BLVD., 7TH FLOOR
LOS ANGELES, CA 90025

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MAR 18 2005

OFFICE OF PETITIONS

In re Application of :
Alex E. Henderson, et al. :
Application No. 10/005,596 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 21526-05579 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned at midnight on January 2, 2004.

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

The application matter is being referred to Technology Center 2600, Art Unit 2667 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application Serial No.:
10/005,597

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: BeVocal, Inc.
685 Clyde Avenue
Mountain View, CA 94043-2213

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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DIW Jul-06

DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO ON M5H 2L7
CANADA

COPY MAILED
JUL 25 2006
OFFICE OF PETITIONS

In re Application of :
Leonid Spektor :
Application No. 10/005,598 : DECISION ON PETITION
Filed: 7 December, 2001 :
Atty Docket No. JJ-11 468US :

This is a decision on the petition filed on 8 June, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 9 June, 2005, for failure to timely reply to the non-final Office action mailed on 8 March, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 November, 2005.

Petitioner has filed an amendment as the required reply.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

The application is being referred to Technology Center Art Unit 2163 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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JAN 21 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

Paper No. 8

In re application of : **DECISION ON PETITION**
Arman Glodjo : **TO MAKE SPECIAL**
Application No. 10/005,609 : **(ACCELERATED EXAMINATION)**
Filed: November 7, 2002
For: GLOBAL ELECTRONIC TRADING SYSTEM

This is in response to the copy of the petition originally filed on January 31, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM: 1/18/03

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
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FROM DIRECTORS OFFICE

SEP 23 2004

TECHNOLOGY CENTER 3600

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

In re application of
Arman Glodjo et al.
Application No. 10/005,609 : DECISION ON REQUEST
Filed: November 7, 2001 : FOR WITHDRAWAL OF
For: GLOBAL ELECTRONIC TRADING SYSTEM : ATTORNEY

This is a decision on the request filed on June 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 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 attorney making the request does not now have, and apparently never has had, power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 09/09/04

OIPE JC41 JUL 30 2002 PATENT & TRADEMARK OFFICE

TD 03041

Docket No. 21401-7002

Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

[X] Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Commissioner for Patents, Washington D.C. 20231.

Dated: July 22, 2002

Name of Person Certifying: Carol M. Gruppi
Printed Name: Carol M. Gruppi

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Malcolm J. Simons	Assignee:	GeneType Corporation
Serial No.:	10/005,626	Examiner:	To Be Assigned
Filing Date:	12/03/01	Group Art Unit:	1655
Title:	INTRON SEQUENCE ANALYSIS METHOD FOR DETECTION OF ADJACENT AND REMOTE ALLELES AS HAPLOTYPES		

Commissioner for Patents
Washington, D.C. 20231

RESPONSE & FEE TRANSMITTAL

Sir:

In response to the Notice to Comply mailed on December 21, 2001, enclosed herewith for filing are the following:

X	Preliminary Amendment (2 pgs.) (in duplicate)
X	Paper Copy of Sequence Listing (Exhibit A; 22 pgs.)
X	Computer Readable Copy of Sequence Listing (Exhibit B; 1 diskette)
X	Statement Regarding Sequence Listing (Exhibit C; 1pg.)
X	Notice to Comply with Sequence Listing Rules (Exhibit D; 1 pg.)
X	Petition for 5 mo. Extension of Time (2 pgs) (in duplicate)
X	Return Receipt Postcard

☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-1189, Docket No. 21401-7002. *A duplicate copy of this sheet is enclosed.*

DATE: July 22, 2002

Respectfully submitted,

By: Carol M. Gruppi
Carol M. Gruppi
Registration No.: 37,341

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111
Telephone: (650) 849-4902
Telefax: (650) 849-4800

OIPE JC41 JUL 30 2002 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/005,626	12/03/2001	Malcolm J. Simons	

CONFIRMATION NO. 8717

FORMALITIES LETTER

OC000000007224857

Carol M. Gruppi
McCutchen, Doyle, Brown & Enersen, LLP
18th Floor
Three Embarcadero Center
San Francisco, CA 94111

Date Mailed: 12/21/2001

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

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

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART I - ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

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JUN 14 2006

OFFICE OF PETITIONS

In re Application of :
Harold J. Plourde Jr. :
Application No. 10/005,628 :
Filed: December 5, 2001 :
Attorney Docket No. A-7446

ON PETITION

This is a decision on the petition filed, June 6, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 5, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2182 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NEIL G. MIYAMOTO
BERLEX BIOSCIENCES
2600 HILLTOP DRIVE
P.O. BOX 4099
RICHMOND CA 94804-0099

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APR 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter W.Bringmann et al	:	
Application No. 10/005,646	:	DECISION ON PETITION
Filed: December 7, 2001	:	
Attorney Docket No. BERLX 87	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 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 November 25, 2005. 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).

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 $1500; and (3) a proper statement of unintentional delay.

The extension of time fee of $1020 submitted with the petition to revive on January 8, 2007 is unnecessary and will be credited to deposit account no. 02-2117as authorized.

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

This application is being referred to Technology Center AU 1647 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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
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89 PHOENIX AVENUE
P.O. BOX 1229
ENFIELD CT 06082

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JUL 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Hyre et al.	:	
Application No. 10/005,682	:	ON PETITION
Filed: 5 December, 2001	:	
Docket No. 5356-05	:	

This is a decision on the petition filed on 18 April, 2006, which is treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application was held abandoned on 10 December, 2005, for failure to timely file a proper Appeal Brief.

A review of the record reveals that on 9 August, 2005, a Notice of Noncompliant Appeal Brief was filed, setting a one (1) month shortened period for reply. Extensions were available in accordance with 37 CFR 1.136(a).

On 1 September, 2005, a supplemental Appeal Brief was filed.

On 28 October, 2005, an Office letter was mailed indicating the supplemental Appeal Brief did not comply with the Notice of Noncompliant Appeal Brief mailed on 9 August, 2005, and that the period for reply remained as set forth in the Notice mailed on 9 August, 2005.

On 21 November, 2005, a supplemental Appeal Brief was filed, along with authorization to charge any required fees. A three (3) month extension of time was charged on 13 February, 2006.

On 13 February, 2006, an Office letter was mailed stating that the supplemental Appeal Brief did not comply with the Notice of Noncompliant Appeal Brief mailed on 9 August, 2005, and that the

period for reply remained as set forth in the Notice mailed on 9 August, 2005.

On 17 March, 2005, (certificate of mailing date 15 March, 2005), a supplemental Appeal Brief was filed.

On 3 April, 2006, Notice of Abandonment was mailed.

Petitioners essentially argue that the holding of abandonment should be withdrawn because (a) the Office did not give applicant sufficient time to respond to the Notice mailed on 13 February, 2006; (b) that the Office should not have accepted the $1,020.00 extension of time fee if the Appeal Brief was non-compliant, and (c) that the Office did not extend property courtesy to applicants in accordance with MPEP 1205.03 in rejecting the appeal briefs.

Petitioners' arguments have been considered, but are not persuasive. At the outset, it is the responsibility of the applicants, not the Office, to ensure that a proper and timely response is filed. While the Office attempts to timely notify applicants of deficiencies in their responses, it is under no obligation to do so.[1] With regards to item (a), the Office did notify the applicants on three (3) occasions that their Appeal Brief was deficient, yet applicant did not timely provide a proper brief. Extensions of time were available to file a proper Appeal Brief in response to the Notice of Noncompliance Appeal Brief.

With regards to item (b), applicant filed a supplemental Appeal Brief with authorization to charge any extensions of time with the extendable period for reply. Hence, the extension of time fee was necessary for a consideration of the Appeal Brief. Whether or not the Appeal Brief was compliant with the regulations has no bearing on whether the extension of time was necessary. Put simply, the extension of time fee is a prerequisite to consideration of applicant's Appeal Brief within the extendable period, but is not a guarantee that the Office will accept the Appeal Brief if the brief is not in compliance with the applicable rules and Office policies.

---

[1] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify partes of deficiencies in their responses in a manner permitting a timely correction).

With regards to item (3) petitioners argue that the MPEP requires that "every courtesy is to be extended during a time when attorney's will not be submitting perfectly styled briefs."

MPEP 1205.03 states:

> The examiner should not require a corrected brief for minor non-compliance in an appeal brief (e.g., the brief has a minor error in the title of a section heading)…

Petitioners' argument is unpersuasive. At the outset, the MPEP states that the Examiner *should* not reject the brief because minor mistakes. As such, the Examiner has discretion to accept or not accept the brief. Essentially, petitioner asserts that the examiner was not sympathetic to the difficulties counsel encountered in dealing with changes to the rules for preparing the Appeal Brief. Here, however, the Examiner repeatedly informed counsel that the brief was defective and explained the deficiencies. Additionally, the showing of record is that the examiner provided counsel with a copy of the regulatory changes necessary to prepare a compliant brief. Thus, it cannot be said that the examiner did not make reasonable attempts to assist counsel in preparing a proper brief. It is the responsibility of the applicant, not the USPTO, to file timely and proper papers in compliance with the laws, regulations, and Office procedures.

37 CFR 1.135(b) states, in pertinent part:

> (a) If an applicant of a patent application fails to reply within the time period provided under 37 CFR § 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.

As applicants failed to comply with 37 CFR 1.135, the application is properly held abandoned.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned

application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after 8 June, 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)).

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

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioners' convenience. A copy of the fee schedule is also enclosed.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Fee Schedule

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

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

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

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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89 PHOENIX AVENUE
P.O. BOX 1229
ENFIELD CT 06082

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OFFICE OF PETITIONS

In re Application of :
Hyre et al. : DECISION ON PETITION
Application No. 10/005,682 :
Filed: 5 December, 2001 :
Atty Docket No. 5356-05 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 11 August, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 10 December, 2005, for failure to file a proper reply to the Notice of Non-Compliant

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

Appeal Brief (37 CFR 41.37) mailed on 9 August, 2005, which set a one (1) month shortened period for reply. On 1 September, 2005, petitioner filed a corrected Appeal Brief. The corrected Appeal Brief was determined to be improper, however, and a Notice was mailed on 28 October, 2005. On 21 November, 2005, a second corrected Appeal Brief was filed, along with a three (3) month extension of time. The corrected Appeal Brief was determined to be improper, however, and a Notice was mailed on 25 February, 2006. A corrected Appeal Brief was again filed on 17 March, 2006. Notice of Abandonment was mailed on 3 April, 2006.

The petition lacks the required reply. Petitioners state that the corrected Appeal Brief filed on 17 March, 2006, is the required reply. The corrected Appeal Brief filed on 17 March, 2006, has been determined by the examiner not to be a proper reply because the brief is non-compliant.

Specifically, the Appeal Brief filed on 17 March, 2006, was addressed in the Notice of Abandonment. Therein, it was noted that the reply filed 17 March, 2006, was not acceptable because the Appeal Brief, among other things, did not include an evidence appendix as required and as previously noted in the communication of 15 February, 2006. As such, the 17 March, 2006, submission is not acceptable because the Appeal Brief is still defective and does not address the appendix issue noted in the communication mailed on 15 February, 2006.

Petitioner should file a renewed petition accompanied by a proper Appeal Brief in compliance with 37 CFR 1.192.

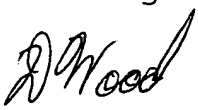
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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EMHART GLASS MANUFACTURING INC.
89 PHOENIX AVENUE
P.O. BOX 1229
ENFIELD CT 06082

COPY MAILED

MAR 12 2007

OFFICE OF PETITIONS

In re Application of :
Hyre et al. : DECISION ON PETITION
Application No. 10/005,682 :
Filed: 5 December, 2001 :
Atty Docket No. 5356-05 :

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed on 11 December, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 10 December, 2005, for failure to file a proper reply to the Notice of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on 9 August, 2005, which set a one (1) month shortened period for reply. On 1 September, 2005, petitioner filed a corrected Appeal Brief. The corrected Appeal Brief was determined to be improper, however, and a Notice was mailed on 28 October, 2005. On 21 November, 2005, a second corrected Appeal Brief was filed, along with a three (3) month extension of time. The corrected Appeal Brief was determined to be improper, however, and a Notice was mailed on 25 February, 2006. A corrected Appeal Brief was again filed on 17 March,

---

[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)).

2006. Notice of Abandonment was mailed on 3 April, 2006. The petition filed on 11 August, 2006, was dismissed on 1 November, 2006, because a proper Appeal Brief had not been filed.

The examiner has determined that the Appeal Brief filed on 11 December, 2006, with the present petition is a proper appeal brief. As such, the petition may be favorably considered.

The application is being referred to Technology Center Art Unit 1731 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

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

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OCT 17 2002

OFFICE OF PETITIONS

In re Application of :
Kurt E. Petersen et al :
Application No. 10/005,685 : NOTICE
Filed: November 7, 2001 :
Attorney Docket No. 020048-002530US :

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 1744.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Ming Nien :
Application No. 10/005,698 : DECISION ON PETITION
Filed: December 7, 2001 :
Attorney Docket No. FP8277 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 13, 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 14, 2002.

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

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 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 April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rogers Towers, P. A.
1301 Riverplace Boulevard
Suite 1500
Jacksonville, FL 32207

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JUN 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Jay S. Huebner, et al. :
Application No. 10/005,717 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. UNF-HUEBNER :

This is a decision on the petition under 37 CFR 1.137(b), filed April 14, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being forwarded to Technology Center 1700.

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

Mailed: 8/31/06

spg
Paper Number _____

In re application of	:	
Jay S. Huebner et al.	:	DECISION ON
Serial No.: 10/005,717	:	PETITION
Filed: November 8, 2001	:	
For: SENSING DEVICE AND METHOD USING PHOTO-INDUCED CHARGE MOVEMENTS	:	

This is a response to the PETITION TO THE DIRECTOR OF THE USPTO UNDER 37 C.F.R. 1.181, filed December 27, 2005. The petition requests that the Examiner's holding that the Appeal Brief filed on September 12, 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37 be reconsidered and withdrawn.

The petitioner asserts that the Examiner's holding that the Appeal Brief fails to comply with the requirements of 37 CFR 41.37 is in error and should be vacated.

This Decision is responsive to Applicant's request.

STATEMENT OF FACTS

- September 12, 2005: Applicant's filed an Appeal Brief.
- November 29, 2005: A NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF (37 CFR 41.37) was mailed in response to the Appeal Brief. The NOTIFICATION states that the "The Appeal Brief filed on September 12, 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37". In particular the notice states that "The Brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawing, if any, by reference characters (37 CFR 41.37(c)(1)(v))." and "The brief does not contain a concise explanation of the claimed subject matter and also does not identify the corresponding structure supporting the means plus function elements of the claims. See 37 C.F.R. 41.37(c)(v)."

DECISION

A review of the petitioner's request and the Appeal Brief filed September 12, 2005 indicates that the request has merit for the following reasons: The Appeal Brief sets forth, in section (5) therein, a complete listing of the claims along with page and line numbers of the specification in

lateral juxtaposition to the corresponding section of the claims thus the Appeal Brief is in compliance with 37 CFR 41.37(c)(v).

Therefore, the Notification mailed November 29, 2005 is hereby withdrawn. The application shall be forwarded to the examiner for prompt consideration of the Appeal Brief filed September 12, 2005.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ROGERS TOWERS, P.A.
1301 RIVERPLACE BOULEVARD, SUITE 1500
JACKSONVILLE FL 32207

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAY 13 2004

OFFICE OF PETITIONS

In re Application of :
Martin Philip Riddiford :
Application No. 10/005,751 : DECISION GRANTING PETITION
Filed: November 7, 2001 : UNDER 37 CFR 1.55(c)
Attorney Docket No. PSION.1CP1C1 :

This is a decision on the petition filed March 15, 2004, under 37 CFR 1.55(c) requesting acceptance of an unintentionally delayed claim under 35 USC 119(a) through (d) for benefit of the filing date of foreign GB 9519556, filed September 26, 1995.

A petition for acceptance of a claim for foreign priority under 37 CFR 1.55(c) is only applicable to those applications filed on or after November 29, 2000. Further, the nonprovisional application must be filed within 12 months of the filing date of the foreign application. In addition, a petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) must be accompanied by:

> (1) the claim under 35 U.S.C. §119(a)-(d) to the prior foreign application, unless previously submitted;[1]
>
> (2) the surcharge set forth in § 1.17(t); and
>
> (3) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore,

---

[1] The claim must identify in the oath or declaration the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country, and the filing date. *Note* also 37 CFR 1.63(c)(2).

since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on November 7, 2001, which is after November 29, 2000. Intermediate Application No. 08/723,882, filed September 23, 1996 was filed within 12 months of September 26, 1995 (the filing date of the foreign application to which benefit is now being claimed). On March 15, 2004, an Application Data Sheet was received which identifies the foreign application for which priority is claimed by application number, country and filing date. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) through (d) is **granted.**

A corrected filing receipt accompanies this decision on petition.

The examiner of Technology Center Art Unit 2835 will consider the foreign priority claim under 35 U.S.C. § 119(a) through (d) and 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

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

ATTACHMENT: Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARRINGTON & SMITH, PC
4 RESEARCH DRIVE
SUITE 202
SHELTON, CT 06484-6212

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of
Antti Ruha, et al.
Application No. 10/005,766
Filed: November 2, 2001
Attorney Docket No. 872.0100.U1(US)

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

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 3, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

IRELL & MANELLA
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of :
Frank Ivan Morris et al :
Application No. 10/005,772 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. 155634-0118 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 1, 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 December 2, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), the amendment submitted on October 24, 2005 does not *prima facie* places the application in condition for allowance. The required reply to the final Office action must be an

amendment that *prima facie* places the application in condition for allowance, a Notice of Appeal and the requisite fee, or a request for continued examination (RCE). A courtesy copy of the Advisory Action is enclosed.

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

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

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

By fax: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

Attachments: Courtesy copy of the 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

IRELL & MANELLA LLP
840 NEWPORT CENTER DRIVE
SUITE 400
NEWPORT BEACH, CA 92660

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Morris et al.	:	DECISION
Application No. 10/005,772	:	ON PETITION
Filed: November 8, 2001	:	
Attorney Docket Number:	:	
155634-0118	:	

This is a decision in response to the renewed petition under 37 CFR 1.137(b), filed February 16, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed September 1, 2004. The Office action set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned December 2, 2004.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 2651 for processing of the RCE and Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-22-07

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 7128872 B2 (10/005,786

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.

Should Claims be renumber as requested

Thank You For Your Assistance

E. James
Certificates of Correction Branch

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

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

Comments:

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-2-07 **Paper No.:** _____

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 7128872 B2 (10/005786)

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.

Applicant want to know the status of request 11/5/11 Eva James
Thanks

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

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

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

Comments:

The changes to column 14, line 41, line 43, line 43, line 45, line 45, line 47, line 47, line 50, line 52, line 54 and line 57 should not be entered.

GLADYS JP CORCORAN
~~SUPERVISORY PATENT EXAMINER~~

_____ SPE _____ Art Unit

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,128,872

APPLICATION NO.: 10/005,786

ISSUE DATE : November 8, 2001

INVENTOR(S) : Richard TURCOT et al.

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

Front Page, Inventors, delete "Dufresue" and insert therefor - -Dufresne- -;

Column 14, line 23, delete "ozonaton" and insert therefor - -ozonation- -;

Column 14, line 31 (claim 1), delete "appwacbes" and insert therefor - -approaches- -;

~~Column 14, line 41, delete "4." and insert therefor - -5.- -;~~

~~Column 14, line 43, delete "5." and insert therefor - -7.- -;~~

~~Column 14, line 43, delete "claim 4" and insert therefor - -claim 5- -;~~

~~Column 14, line 45, delete "6." and insert therefor - -9.- -;~~

~~Column 14, line 45, delete "claim 5" and insert therefor - -claim 7- -;~~

~~Column 14, line 47, delete "7." and insert therefor - -11.- -;~~

~~Column 14, line 47, delete "claim 6" and insert therefor - -9- -;~~

~~Column 14, line 50, delete "8." and insert therefor - -4.- -;~~

~~Column 14, line 52, delete "9." and insert therefor - -6.- -;~~

~~Column 14, line 54, delete "10." and insert therefor - -8.- -;~~

~~Column 14, line 57, delete "11." and insert therefor - -10.- -.~~

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Borden Ladner Gervais LLP, World Exchange Plaza,
100 Queen Street, Suite 1100, Ottawa, Ontario K1P 1J9, CANADA

March 7, 2007

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.

1-23-08

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

Patent No. : 7,128872 B2
Inventor(s) : Simon Robitaille
Issued : October 31, 2006
For: METHOD AND APPARATUS FOR OZONE STERILIZATION

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.322.

The alleged errors, changes to column14, line 41, line 43, line 43, line 45, line 45, line 47, line 47, line 50, line 52, line 54 and line 57 should not be entered.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

A certificate of correction will issue the remaining errors noted in your request.

For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 308-9390 ext.124 or 125

Akerman Senterfitt
P.O. Box 3188
West Palm Beach FL 33402-3188

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 20 2004

Medtronic, Inc.
710 Medtronic Parkway NE
MS-LC340
Minneapolis, MN 55432-5604

Paper No.

In re Application of	:	DECISION ON PETITION
Jerome T. Hartlaub	:	TO WITHDRAW
Serial No. : 10/005,789	:	HOLDING OF
Filed : November 8, 2001	:	ABANDONMENT
For : Infusion System for Creating Microenvironments in a Living Body	:	

This is a decision on a request filed September 21, 2004, to review the holding of abandonment mailed September 8, 2004 for failure to respond to the Office action mailed March 3, 2004. 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 April 27, 2004 as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed September 8, 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 filed April 27, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/09/27/04

UNITED STATES PATENT AND TRADEMARK OFFICE

#12

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OCT 1 2003

Office of the Director
Group 3600

Douglas W. Swartz
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver CO 80202-5141

Paper No 12

In re Application of :
Micke Brian et al. : DECISION ON PETITION
Application No.10/005797 : TO WITHDRAW THE
Filed: November 2, 2001 : HOLDING OF ABANDONMENT
For: METHOD AND APPARATUS FOR
REMOVING OBSTRUCTIONS IN MINES

The paper filed July 18, 2003 has been treated as a Petition to Withdrawal the Holding of Abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated February 21, 2003.

☐ USPTO return facsimile receipt dated_____.

☐ Certificate of Mailing/Transmission signed on_____.
and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted
dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the examiner for appropriate action.

en/9/27/03

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
10/005,807	12/05/2001	Tah-Kang Joseph Ting	ET01-003	9409

28112 7590 03/28/2006

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

EXAMINER	
MENGISTU, AMARE	
ART UNIT	PAPER NUMBER
2673	

DATE MAILED: 03/28/2006

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 Patent No. JOSEPH TING ET AL.
Issue Date: 09/13/2005
Appl No.: 10/005,807
Filed: December 05, 2001
For: LCD CONTROLLER WHICH SUPPORTS A NO-SCALING IMAGE WITHOUT A FRAME BUFFER

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition under 37 CFR 1.48, filed 08/09/2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Sumati Lefkowitz
Supervisory Patent Examiner
Art Unit 2629
Patent Examining Group 2600

GEORGE O. SAILE & ASSOCIATES
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
AMB 08-02

Paper No. 6
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SEP 12 2002
OFFICE OF PETITIONS

TAYLOR & AUST, P.C.
142 S. Main St.
P.O. Box 560
Avilla, IN 46710

In re Application of
Epple, et al.
Application No. 10/005,839
Filed: November 8, 2001
Attorney Docket No.: FWP0049.US
For: AUTOMATIC POOL COVER BOX EQUIPMENT MOUNTING ASSEMBLY

: DECISION DISMISSING
: PETITION UNDER 37 CFR
: 1.137(b), DECISION
: GRANTING PETITION UNDER
: 37 CFR 1.136(a), and
: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petitions under 37 CFR 1.137(b) and 37 CFR 1.47 filed July 24, 2002. This matter is also being treated under 37 CFR 1.136(a) as a petition for a five (5) month extension of time for reply to an Office communication.

PETITION UNDER 37 CFR 1.137(b)

The application was filed November 8, 2001. A Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed December 31, 2001. The Notice required applicant to submit an executed oath or declaration and surcharge. The Notice set a two (2) month period of time for reply and indicated that extensions of time for reply under 37 CFR 1.136(a) were permitted. The period of time for reply was extendible by five months, thus permitting applicant to timely file a reply to the Notice along with a petition for an extension of time up to July 31, 2002.

The instant petition under 37 CFR 1.137(b) was submitted prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, a petition under 37 CFR 1.137(b) is **DISMISSED AS INAPPROPRIATE**.

Petitioner is entitled to a refund of the previously submitted petition to revive fee. A refund to Deposit Account No. 20-0095 has been requested from the Finance Office, Refund Section.

PETITION UNDER 37 CFR 1.136(a)

The petition for a five (5) month extension of time is hereby **GRANTED**.

The required five (5) month extension of time fee has been charged to Deposit Account No. 20-0095.

PETITION UNDER 37 CFR 1.47(a)

Petitioner has shown that inventor Lanny R. Smith has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). The petition is

hereby **GRANTED** and this application is hereby **accorded Rule 1.47(a) status**.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

LYON & LYON
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

COPY MAILED

MAR 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Shuki Vitek :
Application No. 10/005,845 : NOTICE
Filed: December 3, 2001 :
Attorney Docket No. 266/217 :

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
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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

MAILED

MAR 05 2009

OFFICE OF PETITIONS

In re Patent No. 6,790,180
Issue Date: September 14, 2004
Application No. 10/005,845
Filed: December 3, 2001
Attorney Docket No. INS-020

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 9, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 15, 2008 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being referred to Files Repository.

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
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JJG/jr: 05-03

Paper No: 7

LAW OFFICES OF
JOHN A. PARRISH
TWO BALA PLAZA
BALA CYNWYD PA 19004

COPY MAILED

MAY 12 2003

OFFICE OF PETITIONS

In re Application of
Vandermeer :
Application No. 10/005,881 : ON PETITION
Filed: 8 November, 2001 :
Attorney Docket No. BUN-8601 :

This is a decision on the petition filed via FAX on 11 March, 2003, and resubmitted on 9 May, 2003, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to Notice to File Missing Parts

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[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * * (Emphasis supplied.)

mailed on 4 January, 2002, with the reply due (absent extension of time) on or before 4 March, 2002;

- as a result, the application was deemed abandoned after midnight 4 March, 2002;
- no Notice of Abandonment was mailed before the instant petition was filed;
- Petitioner and Counsel (John A. Parrish (Reg. No. 31,918)) filed the instant petition under 37 C.F.R. §1.181 (with authorization for fee, which is waived), contemporaneously with copies of (*inter alia*):

  --the Notice of Missing Parts and the response thereto in the form of a signed oath/declaration and authorization for credit card payment of fees (small entity) including the basic filing, fee ($375.00), 3 additional independent claims ($126.00) , and the surcharge ($65.00);

  --office records evidencing the non-receipt of the Notice of Missing Parts.

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]

---

[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).

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]))

Petitioner has made an adequate showing of non-receipt.[8]

Accordingly, in view of the showing and statement of Counsel the petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 hereby is **granted** and, as noted above, petition fees are waived.

The instant file is being forwarded to OIPE for further processing consistent with this decision, before being forwarded to Technology Center 1700 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

---

[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 and or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and or deposited for shipment.

[8] See MPEP 711.03(c)(III)(C)(2).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STRONG C. CHUANG
915 CAMBRIDGE COURT
APPLETON, WISCONSIN 54915

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SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Hu, et al. :
Application No. 10/005,882 : LETTER
Filed: December 3, 2001 :
Attorney Docket No. KCX-439 (15571) :
For: TISSUE PRODUCTS HAVING REDUCED :
LINT AND SLOUGH :

Dear Sir:

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

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

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

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

CC: DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

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

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

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SEP 0 9 2002

OFFICE OF PETITIONS

In re Application of
Hu, et al.
Application No. 10/005,882
Filed: December 3, 2001
Attorney Docket No. KCX-439 (15571)
For: TISSUE PRODUCTS HAVING REDUCED LINT AND SLOUGH

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2002.

The petition is **GRANTED**.

Petitioner has submitted sufficient proof to demonstrate that bona fide effort has been made to provide the non-signing inventor, Strong C. Chuang, with the application papers and that either the nonsigning inventor cannot be reached, or having been reached, refuses to execute the declaration.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/21/2010

Applicant	: Ibrahim Cem Duruoz	: DECISION ON REQUEST FOR
Patent Number	: 7178152	: RECALCULATION of PATENT
Issue Date	: 02/13/2007	: TERM ADJUSTMENT IN VIEW
Application No	: 10/005,884	: OF WYETH
Filed	: 12/03/2001	:
		:

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

KARL F. MILDE, JR., ESQ.
MILDE, HOFFBERG & MACKLIN, LLP
SUITE 460
10 BANK STREET
WHITE PLAINS, NY 10606

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MAY 2 3 2002

OFFICE OF PETITIONS

In re Application of
Satloff & Satloff
Serial No. 10/005,922
Filed: November 20, 2001
Attorney Docket No. SATLOFF 202-KFM

: DECISION GRANTING
: PETITION

This is a decision on the correspondence entitled, "PETITION TO ADVANCE FILING DATE," filed January 15, 2002, (certificate of mailing date December 26, 2001) requesting that the above-identified application be accorded a filing date of November 20, 2001, instead of the presently accorded date of December 7, 2001.

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

In accordance with the O.G. Notice, petitioners have mailed the USPTO a copy of the correspondence by first class mail with a statement by the person who originally deposited the correspondence with the USPS by Express Mail, Mr. Karl F. Milde, Jr.. The properly signed and dated statement declares that Mr. Milde attempted to deposit the correspondence into Express Mail on November 20, 2001, but the USPS refused to accept it.

In addition, petitioners have provided a copy of blank Express Mail label "ET 603 359 933 US" with a USPS date stamp showing November 20, 2001 affixed thereto. The same Express Mail label number is cited on the transmittal letter found among the original application papers.

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 20, 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS .

In view of the above, the petition is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee submitted with the instant petition will be credited to deposit account 50-0427.

The application will be returned to the Office of Initial Patent Examination for further processing

with a filing date of November 20, 2001. Thereafter, the application will be forwarded to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney E. Shirene Willis at (703)308-6712.

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

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)

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

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

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

◯ The assignee of record of the entire interest

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

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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)
6607329	2003-08-19	10005925	2001-12-07	FORT.3346-NY

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Arlen L. Olsen/	Date (YYYY-MM-DD)	2007-10-12
Name	Arlen L. Olsen	Registration Number	37543

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6607329
Issue Date: August 19,2003
Application No. 10005925
Filed: December 7,2001
Attorney Docket No. FORT-3346

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

This is a decision on the electronic petition, filed October 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICK MARTIN
PATENT LAW OFFICES OF RICK MARTIN, P.C.
416 COFFMAN STREET
LONGMONT, CO 80501

COPY MAILED

AUG 2 4 2005

OFFICE OF PETITIONS

In re Patent No. 6,751,814 :
Issue Date: June 22, 2004 :
Application No. 10/005,953 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. RM449B :

This is a decision on the petition filed May 16, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignees' names 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) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

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

[1] See 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
DIW 08-02

Paper No. 4

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:
Curie et al.	: DECISION DISMISSING
Application No. 10/005,964	: PETITION
Filed: 7 December, 2001	:
Attorney Docket No. D6384	:

This is a decision on the petition filed under 37 CFR 1.183 which is treated as a petition requesting waiver of the rules in that an application filed by first class mail using Certificate of Mailing procedures be accorded a filing date of the asserted date of deposit with the USPS, which was 4 December, 2001, rather than the actual date of receipt in the USPTO, which was 7 December, 2001.

The petition is dismissed.

Petitioners assert that the above-identified application was deposited in first-class mail to the Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, BOX PATENT APPLICATION, Arlington, VA 22202, on 4 December, 2001. A review of Office records reveals that the application papers were received on, and accorded a filing date of, 7 December, 2001.

Petitioners request that the application be accorded a filing date of 4 December, 2001, the asserted date of deposit with the USPS. In support, petitioners have provided an affidavit by Colleen M. Werner, an employee of petitioners' counsel, stating, to wit, that she spoke to an employee of the USPTO on either 20 or 30 November, 2001, and was informed of the following:

...

2. I placed a telephone call to the United States Patent Office either on November 20th or November 30th to inquire about the Notification Related to United States Postal Interruption issued by the Office of Patent Legal Administration which I had

read but had found confusing. I do not have the name of the person with whom I spoke. Nor do I remember if this conversation occurred immediately or if I left a message and received a return phone call.

3. I asked whomever I spoke with to explain to me how to use the temporary P.O. Box in Arlington, Virginia assigned for correspondence filed under 37 CFR 1.10. I was told that if this address together with the Box the correspondence was to be directed, i.e. Box Patent Application, was placed on a Certificate of Mailing, the attached correspondence would be received as though mailed according to 37 CFR 1.10. I further inquired how this was to be mailed and was informed that it could be mailed via the U.S. Postal Service First Class Mail since express mail was not being accepted.

4. I acted in good faith on this information and I believed that this procedure would accord the filing date as that date on the Certificate of Mailing. I deposited the documents identified on the enclosed return postcard with the U.S. Postal Service as First Class Mail on December 4, 2001 to: The Honorable Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, Box Patent Application, Arlington, VA 22201.

...

Petitioners request that the application be accorded a filing date of 4 December, 2001, rather than the currently accorded filing date of 7 December, 2001.

At the outset, petitioners are reminded that Certificate of Mailing Procedures do not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date.[1]

The guidance set forth in the above-mentioned Official Gazette notice and posted on the Internet set on 20 November, 2001, is reproduced below, in pertinent part.[2]

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[1] 37 CFR 1.8(a)(2)(I)(A).

[2] See, United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001).

UNITED STATES POST SERVICE INTERRUPTIONS RELATING TO EXPRESS MAIL SERVICE

Where the USPS refuses to accept the deposit of mail for delivery by express mail.

In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE.

Where mail is put into an Express Mail "Drop Box" and given an incorrect "date in".

In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 CFR 1.10(d) may apply. Usually 37 CFR 1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 CFR 1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP 513 and TMEP 702.02(e).

Alternative Procedure Invoking "Extraordinary Circumstances"

If a party can demonstrate that due to extraordinary circumstances the above procedures could not be followed, it

> will be necessary to file a petition under 37 CFR 1.183 (patent matter) or 2.146(a)(5) and 2.148 (trademark matter) to waive the requirements of 37 CFR 1.10 to permit the USPTO to accord the correspondence a filing date as of the date that Express Mail deposit was attempted. *Such a petition must be accompanied by a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail, stating the date that the deposit was attempted and that the USPS refused to accept the correspondence, and be signed by such person subject to the conditions prescribed in 37 CFR 10.18.*
>
> Certificates of Mailing Under 37 CFR 1.8
>
> Parties submitting correspondence to the USPTO are reminded that 37 CFR 1.8 (certificate of mailing or transmission practice) does not provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8. *Therefore, it would be inappropriate to file a petition under 37 CFR 1.183 or 2.146(a)(5) and 2.148 to waive the requirements of 37 CFR 1.8.*
>
> (emphasis added)

A copy of the notice posted on the USPTO Internet site is also included for petitioners' convenience.

In the instant case there is no showing that petitioners ever attempted to deposit the application papers by Express Mail, nor that an attempted deposit of the application papers by Express Mail was refused by the USPS. As such, petitioners have not met the requirements set forth in the above-referenced Official Gazette notice for filing a petition 37 CFR 1.183 to waive the requirement of 37 CFR 1.10. Additionally, the Notice clearly states that 37 CFR 1.8 (certificate of mailing or transmission practice) does *not* provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8.

As the showing of record is that petitioners never attempted to deposit the present application papers by Express Mail, but instead simply mailed the application papers by first-class mail with a certificate under 37 CFR 1.8, it is clear that petitioners have not met the requirements for a grantable petition under 37 CFR 1.183 as set forth in the above-referenced Notice.

Furthermore, in reference to Ms. Werner's statement that she was acting in good faith and believed that the USPTO would accord a filing date as of the date of the Certificate of Mailing, to the extent the USPTO might have any discretion in this matter, the circumstances of this application do not demonstrate that justice requires extraordinary relief.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed.[3] Petitioner has not shown that either condition exists in this case.

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.[4] Waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[5]

That is, a lack of knowledge of, or the failure to properly apply, the patent statutes, rules of practice, and procedures before the USPTO is not an adequate basis for requesting extraordinary relief. Specifically, circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief.[6] Likewise, clerical inadvertence or error is not a ground for requesting waiver of the regulations.[7]

---

[3] In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

[4] See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

[5] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

[6] See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[7] See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

It is not understood, and no explanation is given beyond, that counsel's employee Ms. Werner found the Office's instructions "confusing," as why petitioners did not follow the procedure stated in the aforementioned notice. The petition does not state whether petitioners' counsel himself read and understood the Notice. Petitioners apparently cannot recall the USPTO employee to whom Ms. Werner spoke, nor the date upon which the telephone call was made. The showing of record is that petitioners' counsel simply delegated this matter to counsel's employee and did not take adequate steps to ensure that the procedures set forth in the Notification Related to United States Postal Service Interruption were followed in the filing of this application. Failure of counsel to act properly does not constitute an extraordinary circumstance where justice requires waiver of a rule. Rather than extraordinary circumstances, the showing of record is that the procedures set forth in the aforementioned Notice were not followed due to a lack of diligence on the part of petitioners.

In summary, petitioners have not made the showing required to invoke "Extraordinary Circumstances" as set forth in the Official Gazette Notice, *Notification Related to United States Postal Service Interruption*.[8] Further, rather than extraordinary circumstances, the showing of record is that the procedures set forth in the aforementioned Notice were not followed due to a lack of diligence on the part of petitioners. The petition is therefore dismissed.

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

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

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

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

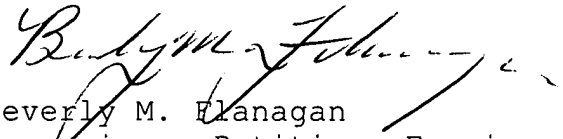
The application is being forwarded to Technology Center 1600 for

[8] See note 2, supra.

examination in due course with the presently accorded filing date of 7 December, 2001.

Telephone inquiries concerning this matter may 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 Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Notification Related to United States Postal Service Interruption--Suspension of the "Express Mail" Service of United States Postal Service for mail addressed to ZIP Codes 202xx through 205xx.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV - 9 2004

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of:
Allen et al.
Serial No.: 10/005,983
Filed: November 7, 2001
Attorney Docket No.: R-517

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) and MPEP 711.03(c) filed on September 17, 2004, requesting withdrawal of the holding of abandonment of the above-identified application based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a final Office action, setting a three-month statutory time period for reply, to applicants on December 31, 2003. On August 24, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that the Office action of December 31, 2003 was never received and provides as evidence thereof a copy of the attorney docket report where the Office action would have been entered if received, showing non-receipt of the Office action. Based on the evidence presented, it is concluded that applicants never received the Office action. In view thereof, the Notice of Abandonment mailed August 24, 2004, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Office action.

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

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

Paper No.

METZ LEWIS, LLC
11 STANWIX STREET
18TH FLOOR
PITTSBURGH PA 15222

COPY MAILED

JUN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
Gene E. Nacey	:	
Application No. 10/005,985	:	DECISION ON PETITION
Filed: November 12, 2001	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
2556/006	:	
Title: VISUAL DISPLAY OF	:	
ROOM INFORMATION	:	

This is a decision on the petition filed September 14, 2007, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed February 16, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on August 13, 2007, and an advisory action was mailed on August 31, 2007, along with a three-month extension of time. No further extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on August 17, 2007. A notice of

abandonment was mailed subsequent to the filing of this petition on November 21, 2007.

A Request for Continued Examination (RCE) along with the associated fee was received on September 10, 2007.

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 submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on August 13, 2007 - can be processed.

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 Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KATTEN MUCHIN ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

COPY MAILED

JAN 31 2008

OFFICE OF PETITIONS

In re Application of :
Hideyasu Kanemaki, et. al. :
Application No. 10/005,988 : ON PETITION
Filed: October 29, 2001 :
Attorney Docket No. 100794-00057(Fuji 19.116) :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 22, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a reply to the final Office action mailed July 17, 2006.

It is not apparent whether 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 Dexter T. Chang appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on January 22, 2007.

The application file is being referred to Technology Center Art Unit 2151, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Sparkolor Corporation
2230 Martin Avenue
Santa Clara, CA 95050

MAILED

JAN 30 2003

OFFICE OF DIRECTOR
GROUP

In re Application of :
David A.G. Deacon :
Application No.: 10/005,992 : DECISION ON REQUEST TO
Filed: November 8, 2001 : WITHDRAW FROM RECORD
For: WAVELENGTH TUNABLE :
OPTICAL COMPONENTS :

This is a decision on the request to withdraw as attorney or agent of record pursuant to 37 C.F.R. § 1.36 and 37 C.F.R. § 10.40 filed on February 26, 2002.

The request is APPROVED for the withdrawal of all the attorneys of record. The withdrawal is effective as of the date of this letter not when the request for withdrawal was filed.

The application currently has no attorney of record.

As requested, all future communications will continue to be directed to Sparkolor Corporation at the address indicated above unless otherwise notified by applicant.

The application is being forwarded to the examiner of record for the preparation of a first Office action in due course.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Ralph Veseli
2220 Homestead Court # 313
Los Altos, CA 94024

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

COPY MAILED

SEP 20 2006

OFFICE OF PETITIONS

In re Application of:	:	
Partridge et al.	:	
Application No. 10/005,996	:	DECISION ON
Filed: December 3, 2001	:	PETITION
Attorney Docket Number:	:	
407T-994110US	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed July 6, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 27, 2005. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned October 28, 2005. A Notice of Abandonment was mailed March 14, 2006.

With the instant petition, Applicant has filed a Notice of Appeal.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The application is being forwarded to Technology Center 1635 to await submission of the Appeal Brief.

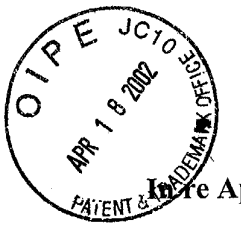
Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

03CO/15

PATENT

OIPE JC10
APR 18 2002
PATENT & TRADEMARK OFFICE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

van Gemen et al.

Serial No.: 10/006,009

Filed: December 4, 2001

For: TESTING ENDOSYMBIONT CELLULAR ORGANELLES AND COMPOUNDS IDENTIFIABLE THEREWITH

Examiner: Unknown

Group Art Unit: 1645

Attorney Docket No.: 5189US

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EL740516009US

Date of Deposit with USPS: April 18, 2002

Person making Deposit: Orlena Howell

RESPONSE TO NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Attention: Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the Notice of Incomplete Reply (Nonprovisional) mailed April 12, 2002, enclosed is a copy of the requested replacement page 42. It is respectfully submitted that he replacement page contains no new matter.

Applicants would like to point out, however, that in response to the original Notice to File Missing Parts of Nonprovisional Application, applicants filed a substitute specification, which

should be electronically reproducible. No new matter was included in the substitute specification (although minor typographical errors were corrected).

A check is included to cover the extension of time fees. If the amount of the check is insufficient, please debit Deposit Account No. 20-1469 for the remainder of the fee. If the amount is in excess of that required, please credit that deposit account.

Respectfully submitted,

Allen C. Turner
Registration No. 33,041
Attorney for Applicants
TRASKBRITT, PC
P. O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: (801) 532-1922

Date: April 18, 2002

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
10/006,009	12/04/2001	Bob van Gemen	5189US

OIPE JC10 APR 18 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 7686

FORMALITIES LETTER

OC000000007854397

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 04/12/2002

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 04/01/2002 to the Notice to File Missing Parts (Notice) mailed 01/08/2002 and it has been entered into the nonprovisional application. The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52 because:
  - The specification cannot be scanned or properly stored. Page(s)
    - Papers must be legibly written either by a typewriter or mechanical printer in permanent ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable, and white paper. Application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes and electronic reproduction by use of digital imaging and optical character recognition. Pages **42** are not in compliance with 37 CFR 1.52(a). *The drawings filed are unacceptable because:*
      Replacement page(s), together with a statement that the replacement page(s) contain no new matter, are required.

20020405.0148

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

B/Z

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

30 AUG 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

#7

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

Kevin M. Kercher
Blackwell, Sanders, Peper & Martin, LLP
720 Olive Street, 24th Floor
St. Louis, Missouri 63101

In re Application of :
BURNS :
Application No.: 10/006,017 : DECISION
Filing Date: 04 December 2001 :
Atty. Docket No.: 717901.19 :
For: PLAYING SURFACE SUBSTRATE, IN :
PARTICULAR TURF MATS :

This is a decision on applicant's "Petition For Correction of National Phase Filing For a Patent Application Under 37 CFR Section 1.182" filed on 19 February 2002 in the United States Patent and Trademark Office (USPTO). The $130 petition fee has been paid.

BACKGROUND

On 02 June 2000, applicant filed international application PCT/GB00/02134, which claimed priority of an earlier British application filed 04 June 1999. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 04 December 2001.

On 04 December 2001, applicants filed a utility patent application transmittal letter in the United States, which was accompanied by, *inter alia*,: $370 basic filing fee, a declaration for utility or design patent executed by the sole inventor and a "Preliminary Amendment." The application was processed as a filing under 35 U.S.C. 111(a).

DISCUSSION

Applicant's transmittal letter filed 04 December 2001 did not request treatment under 35 U.S.C. 371 but rather was for a new nonprovisional application under 37 CFR 1.53(b). The declaration filed 04 December 2001 however, did identify PCT International Application number PCT/GB/00/02134. Thus, it was unclear what type of application applicant was intending to file. Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.494(f) and 37 CFR 1.495(g)). In addition, section 1893.03(a), page 1800-114 of the MPEP states that "[i]f there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a)." As such, the application was properly treated as an application under 35

U.S.C. 111 and 37 CFR 1.53.

Furthermore, U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, if this application (Application No. 09/006,017) and the international application (PCT/GB00/02134) designating the United States were copending on 04 December 2001. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is a continuation of international application PCT/GB00/02134), filed 02 June 2000 which designated the United States and is now abandoned."

Applicant is reminded that in order to perfect the claim for priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of priority document submitted to the International Bureau for the national stage cannot be relied upon to perfect the claim for priority. See MPEP § 1896.

CONCLUSION

The petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Derek Putonen
Petitions Attorney
PCT Legal Office
Tel. (703) 305-0130
Fax (703) 308-6459

20 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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

Kevin M. Kercher
Blackwell, Sanders, Peper & Martin, LLP
720 Olive Street, 24th Floor
St. Louis, Missouri 63101

In re Application of	:	
BURNS	:	DECISION ON RENEWED
Application No.: 10/006,017	:	
Filing Date: 04 December 2001	:	PETITION UNDER
Atty. Docket No.: 717901.19	:	
For: PLAYING SURFACE SUBSTRATE, IN PARTICULAR TURF MATS	:	UNDER 37 CFR 1.182

This is a decision on applicant's "Renewed Petition 37 C.F.R. Section 1.182" filed on 30 October 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 30 August 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.182 to convert the present filing under 35 U.S.C. 111(a) to a national stage filing under 35 U.S.C. 371. Applicant was afforded two months to file any request for reconsideration.

On 30 October 2002, applicant filed the present renewed petition.

DISCUSSION

As detailed in the decision mailed 30 August 2002, any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). (See 37 CFR 1.495(g)). It is undisputed that the 04 December 2001 submission did not clearly and unambiguously identify the submission as a national stage application. Therefore, pursuant to 37 CFR 1.495(g) treatment of the submission as a filing under 35 U.S.C. 111(a) was proper.

Applicant argues that certain facts, e.g. the submission of only a preliminary amendment and mailing the submission to "Box PCT" justifies treatment of the submission as a filing under 35 U.S.C. 371. This argument is unpersuasive as such treatment would violate 37 CFR 1.495(g) which mandates that, in the presence of conflicting instructions, the submission will be treated as a filing under 111(a). To grant the relief requested by petitioner would require a waiver of this rule. However, noncompliance with a rule due to a lack of knowledge of the rule is generally not considered an "extraordinary situation" justifying waiver under 37 CFR 1.183. (See MPEP cases cited in Section 513 at 500-61.

As to applicant's contention that there are only three forms listed on the USPTO website related to the Patent Cooperation Treaty, a close look at applicant's "Exhibit B" shows a button entitled "Access to more Patent Cooperation Treaty (PCT) forms on PCT site." This section of the USPTO website contains all necessary forms, most relevantly, the "Form PTO-1390 Transmittal Letter to the US Designated/Elected Office."

Regarding applicant's contention that revival of the present international application will result in "double patenting" of the invention. This is incorrect. Applicant is not barred from having two applications, only two patents.

Applicant also questions in the renewed petition, "[s]hould the Applicant, because of his status as a foreign citizen, suffer an undue hardship and prejudice due to the loss of PCT National Phase status?" Applicant is not being subjected to hardship and prejudice due to his status as a foreign citizen. Rather, any alleged hardship encountered by applicant is attributed to applicant's failure to comply with the mandate under 37 CFR 1.495(g) that the submission be clearly identified as a national stage submission. Further, as indicated in the previous decision, national phase status may be restored pursuant to 37 CFR 1.137(b), or benefit under 35 U.S.C. 120, 365(c) and 119(a)-(b) to the prior PCT and GB applications may be possible under 37 CFR 1.55 and 37 CFR 1.78.

U.S. statutes and regulations do not make specific provision for the requested action and as such, the Office does not grant such petitions for conversion as a mere matter of course. The Office will only grant such petitions upon a showing by applicant of sufficient cause (i.e., the loss of patent rights) where no other remedy is available. As explained in the decision mailed 30 August 2002 and above, other remedies exist in the present case.

CONCLUSION

The renewed petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Derek Putonen
Attorney Advisor
PCT Legal Office
Tel. (703) 305-0130
Fax (703) 308-6459

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
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

BLACKWELL SANDERS PEPER MARTIN LLP
720 Olive Street
Suite 2400
St. Louis, MO 63101

In re Application of
John Granville Burns
Application No. 10/006,017
Filed: December 4, 2001
For: PLAYING SURFACE SUBSTRATE, IN PARTICULAR TURF MATS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition under 37 CFR 1.137(a) for revival of the application unavoidably abandoned dated December 30, 2004. The petition is being treated as a withdrawal of holding of abandonment under 37 CFR 1.181

The petition is **GRANTED**.

A review of the application file reveals that a Notice of Abandonment mailed December 22, 2004, specified that the application had become abandoned because the Office in regard to the Restriction/Election mailed May 19, 2004 had received no reply. Applicant provides evidence of timely filing of an election on June 21, 2004. Thus abandonment was premature.

The Office apologizes for the erroneous Notice of Abandonment.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status, before being returned to the examiner for an expeditious Action.

Applicant is advised that he should request a refund of his 37 CFR 1.137(a) petition fee.

Kenneth J. Dorner,
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/jwk: 1/26/05

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6705054	2004-03-16	10/006,047	2001-12-06	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

◯ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Thomas Bradley Pelton/	Date (YYYY-MM-DD)	2010-03-03
Name	Thomas Bradley Pelton		

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. 6705054
Issue Date: March 16,2004
Application No. 10006047
Filed: December 6,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed March 3,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of :
Walker, et al. : DECISION ON PETITION
Application No. 10/006,103 :
Filed: December 6, 2001 :
Atty. Docket No.: 15436.436.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 6, 2005 for failure to timely submit a proper reply to the final Office action mailed October 5, 2004. The final Office action set a three month shortened statutory period of time for reply. A three month petition for extension of time was timely requested. Notice of Abandonment was mailed November 1, 2005.

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

This application file is being forwarded to Technology Center 2800 for processing of the RCE submitted April 5, 2005 and supplemented July 21, 2005.

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

DATE : 10/11/06

Paper No.: ____

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/006130 Patent No.: 7098312 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**.

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: _____

_____

_____

_____

_____

Brenda Brumback — SPE

1647 — Art Unit

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Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVE NW
WASHINGTON DC 20037

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JUL 05 2005

OFFICE OF PETITIONS

In re Patent No. 6,838,106	:	DECISION ON
Kumamoto, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: January 4, 2005	:	AND NOTICE OF INTENT
Application No. 10/006,137	:	TO ISSUE
Filed: December 10, 2001	:	CERTIFICATE OF
Attorney Docket No. Q67421	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed March 3, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred eight-eight (188) days to two hundred thirty-three (233) days.

The request is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **two hundred thirty-five (235)** days.

On January 4, 2005, the above-identified application matured into U.S. Patent No. 6,838,106. The instant request for reconsideration filed March 3, 2005 was timely filed within two months of the date the patent issued. The Patent issued with a Patent Term Adjustment of one hundred eight-eight (188) days. Patentees state that they should not have been assessed applicant delay of forty-five (45) days[1] for the

[1] The Office assessed applicant delay of forty-seven (47) days for the IDS submission, not forty-five (45) days.

submission of an IDS after the mailing of the Notice of Allowance, because the IDS was a duplicate submission of an IDS previously filed.

Under the circumstances of this case, it is concluded that the filing of applicants' IDS is not a failure to engage under 37 C.F.R. §1.704(c)(10). A review of the record reveals that applicants previously submitted an IDS on March 24, 2004 and May 19, 2004. However, the Notice of Allowance mailed on June 3, 2004, did not include an initialed IDS. Applicant filed the request for an initialed IDS on July 12, 2004. This was the first opportunity for applicants to make the request for the initialed copy of the IDS filed May 19, 2004. Accordingly, the assessment of forty-seven (47) days of applicant delay with respect to this filing is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is **two hundred thirty-five (235)** days (235 days of PTO delay and 0 days of applicant day).

Receipt of the $200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **two hundred thirty-five (235)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

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

Enc: draft certificate of correction

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

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/006,166	**7/30/02**	**PAVEL LAZAREV**	**NONE**

Title: **LIQUID CRYSTAL INFORMATION DISPLAYS**

Art Unit	Paper Number

Correspondence Address:
Aldo Test
DORSEY & WHITNEY
Four Embarcadero Center, Suite 3400
San Francisco CA 94111-4187

PATENT & TRADEMARK OFFICE
MAILED
SEP - 9 2002

LICENSING & REVIEW

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

License Number: 529,435
Grant Date: 06-Sep-02

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:

for Commissioner of Patents and Trademarks

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

This license is granted under 37 CFR 5.15(a)

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

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

LICENSE FOR FOREIGN FILING

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re:	LAZAREV	:DECISION ON REQUEST
Petition No.:	10/006166	:UNDER 37 CFR 5.25
Petition Filing Date:	July 30, 2002	

Title: LIQUID CRYSTAL INFORMATION DISPLAYS

This is a decision on the petition for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C. 184 be granted with respect to the filing(s) listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under secrecy order, that the license was diligently sought, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	Date
Russia	December 6, 2000

Yvonne R. Abbott
Patent Examiner
(703) 308-2866

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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APR 07 2005

OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No. 10/006,215 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 17352 (PC11053A) :
For: GLUCOCORTICOID RECEPTOR MODULATORS

This is a decision on the petition under 37 CFR 1.137(b), filed on July 30, 2004 (certificate of mailing date July 28, 2004) to revive the above-identified 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. It appears that the attorney signing the petition is not of record in this case. 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 became abandoned for failure to properly and timely reply to the October 2, 2003 final Office action which set an extendable three (3) month period for reply. An amendment after final, filed March 18, 2004 (certificate of mailing date March 15, 2004) along with a three month extension of time and required fee, failed to place this application in *prima facie* condition for allowance, as was explained in the April 7, 2004 Advisory Action. Therefore, this application became abandoned on April 3, 2004. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and amendment in reply to the October 2, 2003 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 2, 2003 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 1600 for further processing.

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

cc: PETER I. BERNSTEIN
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

UNITED STATES 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

JAMES D. JACOBS ESQ.
BAKER & MCKENZIE
805 THIRD AVENUE
NEW YORK NY 10022

COPY MAILED

JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Brendon Conlan et al :
Application No. 10/006,241 : ON PETITION
Filed: December 7, 2001 :
Attorney Docket No. 75978/16008 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The declarations submitted with the instant petition on April 12, 2004, is missing the signature page of inventor Tracey Ann Edgell. **See 37 CFR 1.63.**

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

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) 305-8859.

Karen Creasy

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

ERICH E. VEITENHEIMER
MORGAN, LEWIS & BOCKIUS
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON DC 20004

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Brendon Conlan et al :
Application No. 10/006,241 : DECISION GRANTING PETITION
Filed: December 7, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 75978/16008 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 14, 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 executed declaration; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of January 7, 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 $1080 extension of time submitted with the petition on February 14, 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 the Office of Initial Patent Examination.

Karen Creasy

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 6-21-05	2 Serial/Patent # 10/006241

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time		2-4-05	$ 1080
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1080

8 TO BE REFUNDED BY:

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

9 50-0831 0

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

Extension Fee not necessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Karen Creasy TITLE: Ret. Exmr.

SIGNATURE: Karen Creasy PHONE: 272-3208

OFFICE: OAC for Patents

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Miller DATE: 6/23/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

OIPE JC81
FEB 14 2005
PATENT & TRADEMARK OFFICE

DAC
ZM

PATENT
Attorney Docket 063373-5013-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Brendon Conlan *et al.***

Application No. **10/006,241**

Filed: **December 7, 2001**

For: **Removal of Biological Contaminants**

Art Unit: **Not Assigned**

Examiner: **Not Assigned**

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
Alexandria, VA 22314

RENEWED PETITION FOR REVIVAL OF A U.S. PATENT APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Pursuant to the provisions of 37 C.F.R. § 1.137(b), Applicants hereby provide a renewed petition for revival of an unintentionally abandoned U.S. Patent Application. A petition filed by Applicants' previous counsel was dismissed on July 13, 2004 as the signature page of inventor Tracey Ann Edgell was missing.

Applicants hereby petition for revival of this application and include the following items:

1. Petition Fee Under 37 C.F.R. 1.17(m): **The Commissioner is hereby authorized to charge $750.00 to Deposit Account 50-0310** of the petition fee.

2. Revocation of Original Power of Attorney and Grant of New Power of Attorney: Applicants enclose a copy of the Revocation of Original Power of Attorney and Grant of New Power of Attorney as filed with the U.S. Patent Office on February 14, 2005.

3. Extension of Time: Applicants petition for a five-month extension of time from September 13, 2004 to February 13, 2005 to respond to the Decision dated July 13, 2004. This response is being filed under the next business day rule on Monday, February 14, 2005 as the due date for responding fell on a Sunday (February 13, 2005). **The Commissioner is hereby authorized to charge $1,080.00 to Deposit Account 50-0310** for payment of the five-month extension of time fee. The Commissioner is hereby

02/16/2005 MBEYENE1 00000104 500310 10006241

01 FC:2453 750.00 DA
02 FC:2255 1080.00 DA

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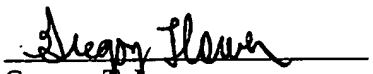
authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

4. Proper Response: The proper response requirements in the form of executed Declarations from all of the inventors are enclosed herewith.

5. Terminal Disclaimer: Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

6. Statement: The entire delay in filing 35 U.S.C. 371(c) requirements from their due date until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional.

Respectfully submitted
Morgan, Lewis & Bockius LLP



Gregory T. Lowen
Registration No. 46,882

Dated: **February 14, 2005**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

#8

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UNITED STATES PATENT AND TRADEMARK OFFI
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TECHNOLOGY CENTER 2100

Paper No. 8

Stephen C. Durant
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

In re Application of:)
Albion J. Fitzgerald)
Application No. 10/006,261) **DECISION ON REQUEST FOR**
Filed: December 4, 2001) **WITHDRAWAL AS ATTORNEY**
For: DISTRIBUTED COMPUTER)
NETWORK INCLUDING
HIERARCHICAL RESOURCE
INFORMATION STRUCTURE AND
RELATED METHOD OF
DISTRIBUTING RESOURCES

This is a decision on the Request To Withdraw from Representation filed August 13, 2003.

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

The request filed August 13, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

for James R. Matthews

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

cc: Vern Francissen
GARDNER, CARTON & DOUGLAS
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606-1698

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of :
Maeda, et al. : LETTER REGARDING PTA
Application No. 10/006,265 :
Filed: December 3, 2001 :
Atty. Dkt. No.: 14875-096001/C2-105DP1P :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed July 10, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 11, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 401 days. Applicants indicate that this adjustment appears to be longer than appropriate because the Office neglected to assess a reduction in connection with the RCE filed June 21, 2006 and the IDS filed July 14, 2006. The issue fee was received July 10, 2008.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 286 days.

As reflected in the Determination of Patent Term Adjustment mailed April 11, 2008, an adjustment of 679 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1). As further reflected by the Determination of Patent Term Adjustment, the adjustment is properly reduced a total of 278 days for applicants' various delays.

However, as indicated by applicants, the Office failed to assess a reduction in connection with the RCE filed June 21, 2006. Therefore, the adjustment is further properly reduced 92 days in accordance with 37 CFR 1.704(b). The reduction commenced March 22, 2006, the day after the date that is three months after the date that the final Office action was mailed, and ended June 21, 2006, the date that the RCE was filed.

As indicated by applicants, the application is subject to further reduction of 23 days in connection with the supplemental reply (IDS) filed July 14, 2006. In accordance with 37 CFR 1.704(c)(8), the reduction commenced June 22, 2006, the day after the initial reply was filed, and ended July 14, 2006, the date that the IDS was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 286 days (adjustments totalling 679 days less reductions totalling 286 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

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).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

Kery A. Fries

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

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 12/18/2008

PALM INTRANET

Time: 12:11:11

PTA Calculations for Application: 10/006265			
Application Filing Date:	12/03/2001	PTO Delay (PTO):	679
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	278
Post-Issue Petitions:	0	Total PTA (days):	286
PTO Delay Adjustment:	-115		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
118	12/18/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		115	
98	04/11/2008	MAIL NOTICE OF ALLOWANCE			
97	04/10/2008	ISSUE REVISION COMPLETED			
96	04/10/2008	DOCUMENT VERIFICATION			
95	04/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
94	04/10/2008	CASE DOCKETED TO EXAMINER IN GAU			
93	04/08/2008	NOTICE OF ALLOWABILITY			
92	01/30/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
91	12/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
90	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	88
89	02/07/2008	DATE FORWARDED TO EXAMINER			
88	01/30/2008	RESPONSE AFTER NON-FINAL ACTION			
83	01/30/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
82	12/18/2007	REFERENCE CAPTURE ON IDS			
81	12/18/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
80	12/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	10/30/2007	MAIL NON-FINAL REJECTION			
77	10/29/2007	NON-FINAL REJECTION			
76	09/28/2007	DATE FORWARDED TO EXAMINER			
75	09/24/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			

74	09/28/2007	DATE FORWARDED TO EXAMINER			
73	09/24/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		94	65
72	09/28/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
71	09/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	09/24/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	07/30/2007	MAIL ADVISORY ACTION (PTOL - 303)			
68	07/26/2007	ADVISORY ACTION (PTOL-303)			
67	06/25/2007	DATE FORWARDED TO EXAMINER			
66	06/22/2007	AMENDMENT AFTER FINAL REJECTION			
65	03/22/2007	MAIL FINAL REJECTION (PTOL - 326)			
64	03/19/2007	FINAL REJECTION			
63	08/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	01/05/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
61	01/05/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
60	01/17/2007	DATE FORWARDED TO EXAMINER			
59	01/05/2007	RESPONSE AFTER NON-FINAL ACTION		71	55
58	01/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	09/14/2006	MISCELLANEOUS INCOMING LETTER			
56.7	08/23/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
56	08/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
55	07/26/2006	MAIL NON-FINAL REJECTION			
54	07/24/2006	NON-FINAL REJECTION			
53	07/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	06/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
51	05/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50.7	07/14/2006	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
50	07/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

49	07/03/2006	CASE DOCKETED TO EXAMINER IN GAU			
48.7	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	06/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	06/22/2006	DATE FORWARDED TO EXAMINER			
46	06/21/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	06/22/2006	DATE FORWARDED TO EXAMINER			
44	06/21/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	06/22/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	06/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
41.7	05/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	05/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	12/28/2005	MISCELLANEOUS INCOMING LETTER			
39	12/21/2005	MAIL FINAL REJECTION (PTOL - 326)			
38	12/12/2005	FINAL REJECTION			
37	09/14/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36.7	09/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	34
36	09/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	09/28/2005	DATE FORWARDED TO EXAMINER			
34	09/14/2005	RESPONSE AFTER NON-FINAL ACTION		92	26
33	09/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	09/06/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
31	09/01/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
30	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
29.7	05/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

28	01/31/2005	REFERENCE CAPTURE ON IDS			
27.7	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		21	23
27	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	03/14/2005	MAIL NON-FINAL REJECTION			
25	03/07/2005	NON-FINAL REJECTION			
24	01/28/2005	DATE FORWARDED TO EXAMINER			
23	01/10/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
22	01/10/2005	WORKFLOW INCOMING AMENDMENT IFW			
21	01/10/2005	WORKFLOW INCOMING AMENDMENT IFW			
20	12/13/2004	MAIL RESTRICTION REQUIREMENT	679		-1
19	12/10/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
18	11/16/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	01/06/2003	PRELIMINARY AMENDMENT			
16.7	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/30/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15.7	05/02/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	05/02/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	11/16/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	01/06/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
12	02/13/2003	APPLICATION DISPATCHED FROM OIPE			
11	02/12/2003	APPLICATION IS NOW COMPLETE			
9	12/30/2002	ADDITIONAL APPLICATION FILING FEES			
8	12/30/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	12/30/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	02/03/2003	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	10/31/2002	SEQUENCE ERRORS			
4	12/19/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/03/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			

2	12/03/2001	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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OFFICE OF PETITIONS

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

In re Patent No. 7,482,440 : DECISION ON APPLICATION FOR
Issued: January 27, 2009 : PATENT TERM ADJUSTMENT and
Application No. 10/006,265 : NOTICE OF INTENT TO ISSUE
Filed: December 3, 2001 : CERTIFICATE OF CORRECTION
Dkt. No.: 14875-0096001/C2-105DP1P :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed March 27, 2009.

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

The above-identified application matured into U.S. Pat. No. 7,482,440 on January 27, 2009. The patent issued with a patent term adjustment of 362 days. The instant application was timely filed in accordance with 37 CFR 1.705(d).

Patentees request correction of the patent term adjustment from 362 days to 907 days. Patentees request this correction on the basis that the Office took in excess of three years to issue the above-referenced patent. Patentees further contest the adjustment of 76 days in connection with the issuance of the patent. Patentees further assert that the Office neglected to assess a reduction of 12 days in connection with the Information Disclosure Statement (IDS) filed July 10, 2008.

Patentees acknowledge the adjustment under 37 CFR 1.702(a)(1) of 679 days. Patentees contest the adjustment of 76 days in connection with the issuance of the patent. Patentees assert that the patent is entitled to 78 days in this regard as the issue fee was submitted July 10, 2008.

A review of the record reveals that patentees are correct in that the issue fee was received by the USPTO on July 10, 2008, and not July 12, 2008, as reflected by the previous calculation of adjustment. In view thereof, in accordance with 37 CFR 1.702(a)(4), the patent is entitled to an adjustment of 78 days, rather 76 days. The adjustment commenced November 11, 2008, the day after the date that is four months after the date that the issue fee was received, and ended January 27, 2009, the date that the patent issued. See, 37 CFR 1.703(a)(6).

In view thereof, the request for correction of the patent term adjustment under 37 CFR 1.702(a)(4) from 76 days to 78 days is GRANTED.

Patentees acknowledge the applicant delays totaling 393 days. Further, patentees assert that the Office neglected to assess a reduction of 12 days in connection with the Information Disclosure Statement (IDS) filed July 10, 2008.

The Office thanks patentees for their good faith and candor in bringing this to our attention. In accordance with 37 CFR 1.704(c)(10), the reduction in this regard is 12 days, as asserted by patentees. The reduction commenced July 10, 2008, the date that the IDS was filed and ended July 21, 2008, the date that the Office mailed a reply in response thereto. Accordingly, the overall reduction for applicant delay totals 405 days, as asserted by patentees.

In view thereof, the request for correction of the applicant delay pursuant to 37 CFR 1.704 from 393 days to 405 days is GRANTED.

Patentees argue that in view of Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008), the patent is entitled to an overall adjustment of 907 days (757 days pursuant to 35 USC 154(b)(1)(A) *plus* 565 days pursuant to 35 USC 154(b)(1)(B) *less* 10 overlapping days *less* 405 days of applicant delay).

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, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on June 21, 2006, the application was pending three years and 564 days after its filing date (December 4, 2004 to June 20, 2006). The Office agrees that as of the filing of the RCE, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 679 days is correct. At issue is whether patentees should accrue 564 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 679 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 564 days of delay in issuing the patent overlaps with the 679 days of examination delay under 37 CFR 1.702(a). 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:

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.

As explained in *Explanation of 37 CFR 1.703(f)*[1] *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

[1] Likewise, 37 CFR 1.703(f) provides that:

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. 54366 (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).

Further, 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.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), December 3, 2001, and ending on June 20, 2006, the day before the date that the RCE was filed on June 21, 2006.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 679 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 564 days of patent term

---

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.

adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 564 days of patent term adjustment that accrued under 37 CFR 1.702(b) overlaps with the 679 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 564 days and the 679 days is neither permitted nor warranted given that 679 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

In view thereof, the request for an additional adjustment of 565 days pursuant to 37 CFR 1.702(b) is hereby DISMISSED.

In view thereof, at the time of issuance of the patent, the application was entitled to an overall patent term adjustment of 352 days (adjustments totalling 757 days (679 days pursuant to 37 CFR 1.702(a)(1) *plus* 78 days pursuant to 37 CFR 1.702(a)(4)) *less* applicant delays of 405 days).

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 352 days.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,482,440 B2
DATED	:	January 27, 2009
INVENTOR(S)	:	Maeda, 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 362 days

Delete the phrase "by 362 days" and insert – by 352 days--

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FISH & RICHARDSON PC
P.O. BOX 1022
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In re Patent No. 7,482,440
Issued: January 27, 2009
Application No. 10/006,265
Filed: December 3, 2001
Dkt. No.: 14875-0096001/C2-105DP1P

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 CFR 1.181 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 906 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 906 days is **GRANTED**.

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

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **906** days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,482,440

DATED : **January 27, 2009** **DRAFT**

INVENTOR(S) : Maeda, 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 352 days

Delete the phrase "by 352 days" and insert – by 906 days--

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OFFICE OF PETITIONS

In re Application of
Colberg, et al.
Application No. 10/006,279
Filed: December 4, 2001
Attorney Docket No. PC10862A

ON PETITION

This is a decision on the petition filed March 29, 2002 (certificate of mailing date March 25, 2002) requesting, in effect, that a Notice to File Missing Parts of Nonprovisional Application, mailed January 25, 2002, be withdrawn with respect to the assertion that page 12 of the specification was omitted.

The application was filed on December 4, 2001. However, on January 25, 2002, the Office of Initial Patent Examination mailed a "Notice" stating that page 12 of the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners argue that the application papers filed on December 4, 2001, included 32 pages of specification, page 12 being among them.

A review of the application file of the present application reveals that page 12 is indeed present. Accordingly, it is now apparent that pager 12 was not omitted on December 4, 2001.

The petition is granted.

Pursuant to petitioners' authorization, deposit account no. 16-1445 will be credited the $130.00 petition fee.

It is noted that the application does not contain a page labeled "Abstract." An abstract is a necessary component of a patent application. If page 12 is intended to be an abstract, petitioners should file a preliminary amendment inserting the word "Abstract" at the top of page 12.

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

Telephone inquiries concerning 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

FEB 20 2007

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In re Application of
Wohlgemuth et al
Serial No. : 10/006,290
Filed : 22 October 2001
Attorney Ref No. : 506612000100

Decision on Petition

This letter is in response to the Petition under 37 C.F.R. 1.144, filed on 12 October 2006, to review the restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

This application was filed under 35 USC 111(a) on 22 October 2001. On 23 September 2005, the examiner made an eight-way restriction requirement and requested that applicants elect a single sequence.

Applicants elected Group V and SEQ ID No 4758, with traverse.

On 13 February 2006, the examiner considered the traversal and made the restriction requirement FINAL. The elected claims 55, 60 and 66-72 were rejected under 35 USC 112, first and second paragraphs.

On 19 July 2006, the examiner rejected claims 55 and 66-72 under 35 USC 112, first paragraph as failing to comply with the enablement requirement.

On 23 January 2007, the examiner rejected claims 55, 66 and 68-72 under 35 USC 112, first paragraph as failing to comply with the enablement requirement. The action was made FINAL.

This petition was filed 12 October 2006.

DISCUSSION

The application, file history and petition under 37 C.F.R. 1.144, to request review of the restriction requirement has been considered. The petition argues that the sequences should be examined together in view of MPEP 803.02 or MPEP 803.04. These arguments will be addressed in turn.

A review of the file history shows that the application was filed with a 596 page specification and 1527 page sequence listing which lists 8832 sequences.

Applicants elected Group V, drawn to a method of diagnosing or monitoring transplant rejection in a patient comprising determining the RNA level transcribed from a DNA sequence. Claim 55 currently recites a list of sequences in the alternative, one of which is the elected sequence SEQ ID No 4758.

Claim 55 is reproduced below:

> Claim 55 (Currently amended): A method of diagnosing or monitoring transplant rejection in a patient, comprising determining the ~~expression level of a nucleic acid~~ RNA level transcribed from DNA in said patient to diagnose or monitor transplant rejection wherein said ~~nucleic acid~~ DNA comprises a ~~nucleic acid~~ DNA selected from the group consisting of SEQ ID NO: 3702, SEQ ID NO: 2073, SEQ ID NO: 213, SEQ ID NO: 3028, SEQ ID NO: 4758, SEQ ID NO: 6299, SEQ ID NO: 832, SEQ ID NO: 2143, SEQ ID NO: 3651, and SEQ ID NO: 3750.

MPEP 803.02, first paragraph, states:

> When the Markush group occurs in a claim reciting a process or a combination (not a single compound) it is sufficient if the members of the group are disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship and it is clear from their very nature or from the prior art that all of them possess this property.

A review of Table 8 shows that the nucleic acids used in the method have non-homologous sequences arising from structurally and functionally different types of genes. For example:

SEQ ID NO 4758 is from a gene putatively encoding a natural killer cell receptor

GGGCAGAGAAGGTGGAGAGTAAAGA
CCCAACATTACTAACAATGATACAG

SEQ ID No 213 is from a gene putatively encoding an Activation mRNA

ATTTATATTAGTTTAGCCAAAGGATAA
GTGTCCTATGGGGATGGTCCACTGTC
ACTGTTTCTCTGCTGTT

SEQ ID No 2073 is from a gene putatively encoding an Adrenomedulin mRNA

TGAAAGAGAAAGACTGATTACCTCCT
GTGTGGAAGAAGGAAACACCGAGT

SEQ ID No 2143 is from a gene putatively encoding an Interleukin 1 receptor 8 beta chain

ACCAAGGCTAGAACCACCTGCCTATA
TTTTTTGTTAAATGATTTCATTCA

Given the diverse structural and functional differences of these sequences, it is not readily apparent from their very nature or from the prior art that the sequences used in this method possess a property in common which is mainly responsible for their function in the claimed relationship, i.e, as a means to monitor transplant rejection.

Even if MPEP 803.02 applied to this method claim, it is noted that the examiner is only required to extend the search and examination to a sequence species when the elected species is found allowable.

> "On the other hand, should the examiner determine that the elected species is allowable, the examination of the Markush-type claim will be extended...."

Because Claim 55 is currently rejected under 35 USC 112, first paragraph for lack of enablement, there would be no requirement for the examiner to extend the search to a second species.

The petition argues that under MPEP 803.02, the sequences should be searched together because it would not be burdensome. Burden is defined in MPEP 808.02, which states:

> (C) A different field of search : Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together....

Each sequence search would require a different search query, along with a review and analysis of the prior art cited in the search results. A search for SEQ ID NO 4758 would not likely identify

prior art reading upon SEQ ID NO 213 and vice versa. Moreover, the text search terms required for SEQ ID NO 4758 (natural killer cell receptor) and the text search terms required for SEQ ID No 213 (activation mRNA) are distinct: prior art obtained from one search would not be useful in examination of the second sequence. For these reasons, a search of ten sequences concurrently would be a serious burden on the Office.

The petition also argues that the ten sequences should be searched together in view of MPEP 803.04. Applicants reference to the U.S. Patent and Trademark Office policy regarding the examination of patent applications that claim large numbers of nucleotide sequences in the Official Gazette, 1192 O.G. 68 (November 19, 1996) is acknowledged, however, not found persuasive on the basis that this policy regarding the partial waiving of the requirements of 37 CFR 1.141 is such that it will permit a reasonable number of nucleotide sequences to be claimed in a single application. Under the policy, up to 10 independent and distinct nucleotide sequences will be examined in a single application without restriction. The waiver is permissive and not a requirement. The waiver pertains to specifically nucleotide product claims and not to process claims which use polynucleotide sequences. The present restriction requirement conforms with this policy as it has required that the application be limited to a single sequence. Applicants are reminded that one is within the range of up to ten and that a search and examination of ten sequences would be a serious burden on the Office.

DECISION

For these reasons, the petition under 37 C.F.R. 1.144 to request review of the restriction requirement and request rejoinder of the oligonucleotide sequences set forth in claim 55 is **DENIED**.

Any request for consideration must be filed within two (2) months of the mailing date of this decision.

Applicants remain under obligation to reply to the Final Office action mailed 23 January 2007 with in the response time specified therein or as extendable under 37 CFR 1.136(a).

Should there be any questions regarding this decision, please contact 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.

George C. Elliott

George Elliott
Director, Technology Center 1600

#4
2/19/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 19 2003

Paper No. 4

Eileen A. Lehmann
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of: Thomas Kavanagh)
Application No. 10/006,293)
Filed: December 6, 2001) **DECISION ON REQUEST FOR**
For: MANAGEMENT OF MEMORY FOR) **WITHDRAWAL AS ATTORNEY**
PROVIDING DATA STORAGE)
ACROSS A REBOOT)

This is a decision on the Request To Withdraw from Representation filed February 4, 2003.

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

The request is **GRANTED**.

All future 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: CIENA Corporation
1201 Winterson Road
Linthicum, MD 21090

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

LYON & LYON LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

COPY MAILED

SEP 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Prussak et al. :
Application No. 10/006,305 : DECISION ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 263/092 :

This is a decision on the petition filed September 15, 2003[1], under 37 CFR 1.137(b), to revive the above-identified application. The petition is being treated under the unintentional provisions of 37 CFR 1.137(f).

This Petition is hereby **granted**.

The above-identified application became abandoned pursuant to 35 USC 122 (b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multinational international agreement, the requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty[2]; (2) the petition fee as set forth in 37 CFR 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

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[1]The petition was received in the Office of Petitions on September 15, 2003; however, the petition was received in Technology Center 1700 on May 28, 2003.

[2] The filing of a petition under this section will not relieve application of the obligation to reply to any outstanding Office action.

This application is being returned to the Office of Initial Patent Examination for mailing of a Notice of Publication Fee Due and a corrected Filing Receipt indicating a projected publication date, and for processing of the response to the Notice to File Missing Parts of Nonprovisional Application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Docket Clerk
P.O. Drawer 800889
Dallas TX 75380

In re Application of
DALAL, NEERAV N., et al.
Application No. 10/006,315
Filed: November 13, 2001
For: **SYSTEM AND METHOD FOR RELIABLE ACKNOWLEDGMENT BETWEEN A MOBILE STATION AND A BASE STATION IN A WIRELESS NETWORK**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition to Withdraw the Holding of Abandonment pursuant to 37 CFR §1.181 filed June 22, 2005. No fee is required.

The application is held as abandoned for failure to timely respond to the non-final Office action mailed October 5, 2004. A Notice of Abandonment was mailed May 20, 2005.

Petitioner states that they did not receive the non-final Office action mailed October 5, 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 Office action 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.

A review of the file record also reveals that the non-final Office action was returned to the Office as undeliverable on October 14, 2004.

Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to the Technology Center's technical support staff for re-mailing the Office action originally mailed October 5, 2004. The period for response will be reset to begin as the new mailing date thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Pap r No.:20060726

DATE : July 26, 2006

TO SPE OF : ART UNIT 3673

SUBJECT : Request for Certificate of Correction on Patent No.: 6863279

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Tricia Engle **Art Unit** 3673

UNITED STATES 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

PATENT DEPARTMENT
COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
P.O. BOX 1343
PISCATAWAY, NJ 08855-1343

COPY MAILED

JUN 0 8 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Daniel Smith et al :
Application No. 10/006,337 :
Filed: December 3, 2001 :
Attorney Docket No. 6607-01/CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2004, to revive the above-identified application.

The petition is **DISMISSED AS MOOT** for the reasons stated below.

A review of the file record discloses that a non-final Office action was mailed on July 21, 2003, setting a three month shortened statutory period for reply. Extensions of time under the provisions of 37 CFR 1.136(a) were permitted. Therefore, a reply, with the appropriate extension of time fee, was due on or before November 21, 2003. A fee for one month extension of time ($110) and a reply was timely filed via certificate of mailing on October 27, 2003, and received in the U.S. Patent and Trademark Office on February 17, 2004. Therefore, since this case was not in fact abandoned at the time of filing the instant petition, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

Since this application was not abandoned at the time of filing of the petition to revive, as explained above, the $1,330 fee assessed to the instant petition is unnecessary and will be credited to deposit account No. 03-2455 as authorized.

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

The application file is being forwarded to Technology Center AU 1751.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 31 2007

TECHNOLOGY CENTER 2100

Donald R. Boys
CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

In re Application of:
Harry GLORIKIAN
Appl. No.: 10/006,346
Filed: December 3, 2001
For: **A SYSTEM FOR SELECTING INFORMATION TO BE TRANSMITTED TO A CLIENT BASED ON POSITION AND CHANGE IN POSITION**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed May 17, 2007, to expunge information unintentionally submitted in papers filed December 20, 2005.

The petition is **GRANTED**.

Petitioner requests that the document entitled as "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a 'Prior' Patent", which was incorrectly filed, be expunged from the record. The Petitioner states that the document was filed unintentionally. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to John Follansbee whose telephone number is (571) 272-3964.

Jack Harvey
Director
Technology Center 2100

UNITED STATES 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. 6847706
Issue Date: January 25,2005
Application No. 10006356
Filed: December 10,2001
Attorney Docket No. 40146-182899

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

This is a decision on the electronic petition, filed March 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 24,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6847706	2005-01-25	10006356	2001-12-10	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

◯ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Saied Bozorgui-Nesbat/	Date (YYYY-MM-DD)	2009-03-24
Name	Saied Bozorgui-Nesbat		

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
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Paper No.

NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of
Keller et al.
Application No. 10/006,385
Filed: December 10, 2001
Attorney Docket No.
N.C. 82,591

DECISION GRANTING
STATUS UNDER
37 CFR 1.47

This is a decision on the petition under 37 CFR § 1.47, filed March 5, 2002. The delay in treating this petition is regretted.

The petition is **GRANTED**.

The above-identified application was filed on December 10, 2001, without an oath or declaration. Accordingly, on January 24, 2002, applicants were mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), requiring, *inter alia*, a properly executed oath or declaration. The Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

Applicants responded with the instant petition and the late surcharge, made timely by an accompanying petition for extension of time for response with two months (and fee). Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Perrin refuses to join in the application for patent. Pursuant to 35 U.S.C. 4, non-signing inventor Perrin has refused to join in the application as he is a current employee of the United States Patent and Trademark Office. The declaration filed March 5, 2002, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the

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

The application file is an image file wrapper ("IFW") and, as such, no forwarding of the file is necessary. Office records have been corrected to reflect rule 47 status in this file.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
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

JAMES AMAN
335 N. BROAD STREET
LANSDALE, PA. 19446

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DEC 0 5 2008

OFFICE OF PETITIONS

In re Application of :
James AMAN :
Application No. 10/006,444 : DECISION ON PETITION
Filed: November 20, 2001 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 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 May 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 29, 2008. Accordingly, the date of abandonment of this application is May 30, 2008.

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 $720.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Petitioner may request a refund of the $35.00 overpayment of the issue fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,874,126	2005-03-29	10/006,522	2001-11-30	45364.33

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Pavel I. Pogodin/	Date (YYYY-MM-DD)	2010-04-07
Name	Pavel I. Pogodin	Registration Number	48205

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

In re Patent No. 6874126
Issue Date: March 29,2005
Application No. 10006522
Filed: November 30,2001
Attorney Docket No. 005383.P003

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

This is a decision on the electronic petition, filed April 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL GERSTEIN & BORUN
6300 SEARS TOWER
233 S. WACKER DRIVE
CHICAGO, IL 60606

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NOV 0 3 2004

OFFICE OF PETITIONS

In re Application of	:	
Rodney Kern et al	:	
Application No. 10/006,558	:	ON PETITION
Filed: December 3, 2001	:	
Attorney Docket No. 29020/97035B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 15, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on April 5, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed May 6, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2004.

The above-identified application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3634 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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GODFREY & KAHN S.C.
780 NORTH WATER STREET
MILWAUKEE WI 53202

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Daniel R. SALOMON et al. :
Application No. 10/006,562 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. 080060-0002 :
(302018.3003-

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 24, 2005, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 25, 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, a Request for Continued Examination, and the $790 filing fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of January 24, 2005 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 1654 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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JAN 2 9 2007

Technology Center 2100

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3213

In re Application of: Barzaghi, et al.
Application No. 10/006,583
Filed: December 10, 2001
For: METHOD OF PROVIDING COMMUNICATION IN DISTRIBUTED SYSTEMS

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on July 25, 2006, requesting that the period for reply set forth in the Office communication (final rejection) mailed on April 3, 2006 be reset and the action remailed. The status letter filed October 27, 2006 is hereby acknowledged.

Petitioner provided a statement that the Office communication in question was not received at the correspondence address of record. In addition, Petitioner provided: a statement that the file jacket and docket records were searched; a copy of the docket records at the address of record; as well as reference to the docket record.

Accordingly, the Petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **REDATE** and **REMAIL** the final Office action, originally mailed April 3, 2006.

Any inquiry concerning this decision should be directed to Brian Johnson whose telephone is (571) 272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW Apr-08

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20037-3213

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APR 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Barzaghi et al.	:	DECISION ON PETITION TO
Application Number: 10/006583	:	WITHDRAW HOLDING OF
Filing Date: 12/10/2001	:	ABANDONMENT
Attorney Docket Number: Q67651	:	
	:	

This is a decision on the "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT UNDER MPEP SECTION 711.03(c)(I)," filed on March 20, 2008.

A Notice of Abandonment was mailed on February 29, 2008, stating that the application was abandoned for failure to timely file a proper reply to the final Office action mailed on April 2, 2007.[1] On October 2, 2007, a three (3) month extension of time was filed, accompanied by an amendment after final rejection and a Notice of Appeal.

On October 30, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on October 2, 2007, fails to place this application in condition for allowance. The aforementioned Notice of Abandonment was subsequently mailed.

Petitioners aver that the Office issued the Notice of Abandonment in error because applicant filed a timely and proper reply to the final Office action of April 2, 2007. Specifically, petitioners assert that they timely filed a Notice of Appeal and a three (3) month extension of time on October 2, 2007.

A review of the record reveals that a Notice of Appeal and three (3) month extension of time filed on October 2, 2007, are located therein.

Accordingly, petitioners have established that they submitted a timely reply to the final Office action in the form of a Notice

[1] The final Office action was originally mailed on April 3, 2006, but was remailed, with a new period for reply set, in accordance with the decision granting petition to reset period for reply mailed on January 29, 2007.

of Appeal and a three (3)-month extension of time on October 2, 2007. **Therefore, the Office reminds applicant that the two (2)-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee required by law, began to run on October 2, 2007, the date of filing the Notice of Appeal.** The Office notes that "37 CFR 41.37(a) does not permit the brief to be filed within the time allowed for reply to the action from which the appeal was taken even if such time is later." *MPEP 1205*. "Once appellant timely files a notice of appeal in compliance with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." *Id.* **Therefore, applicant is required to submit an appeal brief on or before May 2, 2008, accompanied by a request for an extension of time for response within the fifth month and fee to avoid abandonment of this application.** In other words, applicant, himself, started the running of the two-month extendable period to file an appeal brief based upon the date applicant originally submitted the Notice of Appeal with the USPTO.

The petition is **granted** to the extent indicate above.

The holding of abandonment is withdrawn and the application is restored to pending status.

This matter is being referred to Technology Center Art Unit 2111 to await the filing of an appeal brief within the period noted above.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

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AUG 20 2008

In re Application of	:	
Barzaghi et al.	:	
Application No. 10/006,583	:	ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. A7651	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2111 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No. 8

GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

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MAY 14 2004

OFFICE OF PETITIONS

In re Application of
P. Eric Pavlik, et al.
Application No. 10/006,586
Filed: November 5, 2001
Attorney Docket No. VI/00-014

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), facsimile on February 25, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 3, 2003, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 4, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 3700, Art Unit 3763.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

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OFFICE OF PETITIONS

Robert C. Klinger
Jackson Walker L.L.P.
2435 North Central Expressway, Suite 600
Richardson, TX 75080

In re Application of :
Larry Morrow :
Application No. 10/006,595 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No.: 107793.00001 :

This is a decision on the petition filed February 15, 2002, requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed January 8, 2002 be withdrawn.

The application was filed on December 5, 2001. However, on January 8, 2002, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of December 5, 2001 but page 23 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 23 was filed on December 5, 2001. In support, the petition is accompanied by a copy of applicant's return postcard which lists 28 pages of specification. The petition is further accompanied by a copy of page 23 of the specification.

Applicant's postcard receipt is prima facie evidence that 28 pages of specifications were received on December 5, 2001, but page 23 of the specification is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 23 of specification was received on December 5, 2001, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The $130.00 petition fee will be credited to Deposit Account No. 50-1752.

Since the original page 23 of the specification cannot be located in the Office, page 23 of the specification supplied on February 15, 2002, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2001, using the substitute page 23 of the specification supplied on February 15, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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JUN 5 2006

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05252006

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of	:	
TAKAOKA	:	DECISION ON PETITION
Application No. 10/006,621	:	
Filed: December 10, 2001	:	
Attorney Docket No. 009523-0290437	:	

This is a decision on the petition filed May 10, 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 September 3, 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 April 30, 2004.

Petitioner asserts that an Amendment in response to the Office action and a Petition for Two-Month Extension of Time were timely filed in the U. S. Patent and Trademark Office (USPTO) on February 3, 2004. This is evidenced by a copy of the Amendment, a copy of the Petition for Two-Month Extension of Time, and a copy of the date stamped receipt indicating receipt of the amendment and petition in the USPTO on February 3, 2004.

The Amendment and the Petition for Two-Month Extension of Time acknowledged as having been received in the USPTO on February 3, 2004 are not of record in the application file and cannot be located. However, M.P.E.P. §503 states, "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."

Accordingly, it is concluded that the Amendment and the Petition for Two-Month Extension of Time were timely received in the USPTO, but lost after receipt thereof. Further, the revenue and accounting records indicate that the Two-Month Extension of Time fee was paid on February 3, 2004.

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 September 3, 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.

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

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Mailed: AUG 25 2004

BC
Paper Number:

In re application of
Mitsuhiro Okuni
Serial No. 10/006,718
Filed: December 10, 2001
For: DRY ETCHING METHOD

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed March 16, 2004. The Petition requests that the abandonment, as set forth in the Notice of Abandonment of March 9, 2004, for failure to timely file a proper reply to the Office letter of April 23, 2003, be withdrawn since the applicants did timely file a response thereto on July 23, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed July 23, 2003 is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on July 23, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on July 23, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed July 23, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

MICHAEL E. FOGARTY
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,026,449 DESNOYERS et al
Issue Date: April 11, 2006
Appl No.: 10/006,746
Filed: December 6, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 11, 2007, 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.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: September 19, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,026,449 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,026,449
Patented: April 11, 2006

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:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 5

Office of Counsel, Code 004
Naval Surface Warfare Center
Carderock Division
9500 MacArthur Boulevard
West Bethesda, MD 20817-5700

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OFFICE OF PETITIONS

In re Application of :
Gary L. Miller et al. :
Application No. 10/006,757 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 82,572 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2003, to revive the above-identified application.

The petition is **Granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 8, 2002, which set a shortened statutory period for reply of Two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 9, 2002.

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

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

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JUN 13 2002

OFFICE OF PETITIONS

In re Application of	:
Schiller et al.	: DECISION DISMISSING
Application No. 10/006,759	: PETITION
Filed: 10 December, 2001	:
Attorney Docket No. D6350B	:

This is a decision on the petition filed under 37 CFR 1.183 which is treated as a petition requesting waiver of the rules in that an application filed by first class mail using Certificate of Mailing procedures be accorded a filing date of the asserted date of deposit with the USPS, which was 30 November, 2001, rather than the actual date of receipt in the USPTO, which was 10 December, 2001.

The petition is dismissed.

Petitioners assert that the above-identified application was deposited in first-class mail to the Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, BOX PATENT APPLICATION, Arlington, VA 22202, on 30 November, 2001. A review of Office records reveals that the application papers were received on, and accorded a filing date of, 10 December, 2001.

Petitioners request that the application be accorded a filing date of 30 November, 2001, the asserted date of deposit with the USPS. In support, petitioners have provided an affidavit by Colleen M. Werner, an employee of petitioners' counsel, stating, to wit, that she spoke to an employee of the USPTO on either 20 or 30 November, 2001, and was informed of the following:

...

2. I placed a telephone call to the United States Patent Office either on November 20th or November 30th to inquire about the Notification Related to United States Postal Interruption issued by the Office of Patent Legal Administration which I had

read but had found confusing. I do not have the name of the person with whom I spoke. Nor do I remember if this conversation occurred immediately or if I left a message and received a return phone call.

3. I asked whomever I spoke with to explain to me how to use the temporary P.O. Box in Arlington, Virginia assigned for correspondence filed under 37 CFR 1.10. I was told that if this address together with the Box the correspondence was to be directed, i.e. Box Patent Application, was placed on a Certificate of Mailing, the attached correspondence would be received as though mailed according to 37 CFR 1.10. I further inquired how this was to be mailed and was informed that it could be mailed via the U.S. Postal Service First Class Mail since express mail was not being accepted.

4. I acted in good faith on this information and I believed that this procedure would accord the filing date as that date on the Certificate of Mailing. I deposited the documents identified on the enclosed return postcard with the U.S. Postal Service as First Class Mail on November 30, 2001 to: The Honorable Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, Box Patent Application, Arlington, VA 22201.

...

Petitioners request that the application be accorded a filing date of 30 November, 2001, rather than the currently accorded filing date of 10 December, 2001.

At the outset, petitioners are reminded that Certificate of Mailing Procedures do not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date.[1]

The guidance set forth in the above-mentioned Official Gazette notice and posted on the Internet set on 20 November, 2001, is reproduced below, in pertinent part.

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[1] 37 CFR 1.8(a)(2)(I)(A).

[2] See, United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001).

UNITED STATES POST SERVICE INTERRUPTIONS RELATING TO EXPRESS MAIL SERVICE

Where the USPS refuses to accept the deposit of mail for delivery by express mail.

In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE.

Where mail is put into an Express Mail "Drop Box" and given an incorrect "date in".

In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 CFR 1.10(d) may apply. Usually 37 CFR 1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 CFR 1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP 513 and TMEP 702.02(e).

Alternative Procedure Invoking "Extraordinary Circumstances"

If a party can demonstrate that due to extraordinary circumstances the above procedures could not be followed, it

> will be necessary to file a petition under 37 CFR 1.183 (patent matter) or 2.146(a)(5) and 2.148 (trademark matter) to waive the requirements of 37 CFR 1.10 to permit the USPTO to accord the correspondence a filing date as of the date that Express Mail deposit was attempted. *Such a petition must be accompanied by a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail, stating the date that the deposit was attempted and that the USPS refused to accept the correspondence, and be signed by such person subject to the conditions prescribed in 37 CFR 10.18.*
>
> Certificates of Mailing Under 37 CFR 1.8
>
> Parties submitting correspondence to the USPTO are reminded that 37 CFR 1.8 (certificate of mailing or transmission practice) does not provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8. *Therefore, it would be inappropriate to file a petition under 37 CFR 1.183 or 2.146(a)(5) and 2.148 to waive the requirements of 37 CFR 1.8.*
>
> (emphasis added)

A copy of the notice posted on the USPTO Internet site is also included for petitioners' convenience.

In the instant case there is no showing that petitioners ever attempted to deposit the application papers by Express Mail, nor that an attempted deposit of the application papers by Express Mail was refused by the USPS. As such, petitioners have not met the requirements set forth in the above-referenced Official Gazette notice for filing a petition 37 CFR 1.183 to waive the requirement of 37 CFR 1.10. Additionally, the Notice clearly states that 37 CFR 1.8 (certificate of mailing or transmission practice) does *not* provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8.

As the showing of record is that petitioners never attempted to deposit the present application papers by Express Mail, but instead simply mailed the application papers by first-class mail with a certificate under 37 CFR 1.8, it is clear that petitioners have not met the requirements for a grantable petition under 37 CFR 1.183 as set forth in the above-referenced Notice.

Furthermore, in reference to Ms. Werner's statement that she was acting in good faith and believed that the USPTO would accord a filing date as of the date of the Certificate of Mailing, to the extent the USPTO might have any discretion in this matter, the circumstances of this application do not demonstrate that justice requires extraordinary relief.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed.[3] Petitioner has not shown that either condition exists in this case.

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.[4] Waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[5]

That is, a lack of knowledge of, or the failure to properly apply, the patent statutes, rules of practice, and procedures before the USPTO is not an adequate basis for requesting extraordinary relief. Specifically, circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief.[6] Likewise, clerical inadvertence or error is not a ground for requesting waiver of the regulations.[7]

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[3] In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

[4] See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

[5] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

[6] See, In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[7] See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

It is not understood, and no explanation is given beyond, that counsel's employee Ms. Werner found the Office's instructions "confusing," as why petitioners did not follow the procedure stated in the aforementioned notice. The petition does not state whether petitioners' counsel himself read and understood the Notice. Petitioners apparently cannot recall the USPTO employee to whom Ms. Werner spoke, nor the date upon which the telephone call was made. The showing of record is that petitioners' counsel simply delegated this matter to counsel's employee and did not take adequate steps to ensure that the procedures set forth in the Notification Related to United States Postal Service Interruption were followed in the filing of this application. Failure of counsel to act properly does not constitute an extraordinary circumstance where justice requires waiver of a rule. Rather than extraordinary circumstances, the showing of record is that the procedures set forth in the aforementioned Notice were not followed due to a lack of diligence on the part of petitioners.

In summary, petitioners have not made the showing required to invoke "Extraordinary Circumstances" as set forth in the Official Gazette Notice, *Notification Related to United States Postal Service Interruption*.[8] Further, rather than extraordinary circumstances, the showing of record is that the procedures set forth in the aforementioned Notice were not followed due to a lack of diligence on the part of petitioners. The petition is therefore dismissed.

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

By mail: Commissioner of Patents
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

---

[8] See note 2, supra.

The application is being forwarded to Technology Center 1600 for examination in due course with the presently accorded filing date of 10 December, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

D Wood

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

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

Encl: Notification Related to United States Postal Service Interruption--Suspension of the "Express Mail" Service of United States Postal Service for mail addressed to ZIP Codes 202xx through 205xx.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALDER & ASSOCIATES
8011 Candle Lane
Houston, Texas 77071

In re Application of	:	
Applicant: Schiller et al	:	
Serial No.: 10/006759	:	DECISION ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No.: D6350B	:	

This is in response to petition to accept color photographs as drawings under 37 CFR 1.84(a)(2) filed on July 6, 2004. The delay is regretted.

All requirements under 37 CFR 1.84(a)(2) are met. Accordingly, petition is granted.

Petition Granted.

Cecilia Tsang
SPE, Art Unit 1625

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

Michael L. Goldman
NIXON PEABODY LLP
1100 Clinton Square
Rochester, NY 14604

Mail Date: 04/21/2010

Applicant	: Shohei Koide	: DECISION ON REQUEST FOR
Patent Number	: 7598352	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/006,760	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/19/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1678** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Robert C. Kowert
Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/21/2010

Applicant	: Jeffrey S. Larson	: DECISION ON REQUEST FOR
Patent Number	: 7574413	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/006,763	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2284** 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

SEP 28 2007

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 6,936,697 DESNOYERS et al
Issue Date: August 30, 2005
Appl No.: 10/006,768
Filed: December 6, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 13, 2007, 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.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SEP 28 200-

UNITED STATES 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: September 26, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6.936,697 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

SEP 28 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,936,697
Patented: August 30, 2005

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:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
Colin K. Watanabe
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Richard P. Junghans, Ph.D., M.D.
One Lyndeboro Place
Boston MA 02116

COPY MAILED

SEP 1 1 2006

OFFICE OF PETITIONS

In re Application of :
Richard P. Junghans :
Application No. 10/006,773 : DECISION ON PETITION
Filing Date: December 10, 2001 : UNDER 37 C.F.R. § 1.137(B)
Title: ANTIBODIES AS CHIMERIC :
EFFECTOR CELL RECEPTORS AGAINST :
TUMOR ANTIGENS :

This is a decision on the petition under 37 C.F.R §1.137(b)[1], filed June 26, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 22, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 23, 2005. A notice of abandonment was mailed on February 17, 2006.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply

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1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

With the present petition, Petitioner has submitted the petition fee, a statement which is being construed as the proper statement of unintentional delay, and an amendment. It is noted that a terminal disclaimer is not necessary.

Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

BENJAMIN AARON ADLER
ADLER & ASSOCIATES
8011 CANDLE LANE
HOUSTON TX 77071

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of	:	
MASTORIDES et al.	:	DECISION DISMISSING
Application No. 10/006,775	:	PETITION
Filed: December 10, 2001	:	
Attorney Docket No. D6350A	:	

This is a decision on the petition filed under 37 CFR 1.183, which is treated as a petition requesting waiver of the rules in that an application filed by first-class mail using Certificate of Mailing procedures be accorded a filing date of the asserted date of deposit with the United States Postal Service (USPS) of November 30, 2001, rather than the actual date of receipt in the United States Patent and Trademark Office (USPTO) of December 10, 2001.

The petition is **dismissed.**

Petitioners assert that the above-identified application was deposited in first-class mail to the Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, BOX PATENT APPLICATION, Arlington, VA 22202, on November 30, 2001. A review of Office records reveals that the application papers were received on, and accorded a filing date of, December 10, 2001.

Petitioners request that the application be accorded a filing date of November 30, 2001, the asserted date of deposit with the USPS. In support, petitioners have provided an affidavit by Colleen M. Werner, an employee of petitioners' counsel, stating that she spoke to an employee of the USPTO on either November 20 or 30, 2001, and was informed of the following:

...

2. I placed a telephone call to the United States Patent Office either on November 20th or November 30th to inquire about the Notification Related to United States Postal Interruption issued by the Office of Patent Legal Administration which I had read but had found confusing. I do not have the name of the person with whom I spoke. Nor do I remember if this conversation occurred immediately or if I left a message and received a return phone call.

3. I asked whomever I spoke with to explain to me how to use the temporary P.O. Box in Arlington, Virginia assigned for correspondence filed under 37 CFR 1.10. I was told that if this address together with the Box the correspondence was to be directed, i.e. Box Patent Application, was placed on a Certificate of Mailing, the attached correspondence would be received as though mailed according to 37 CFR 1.10. I further inquired how this was to be mailed and was informed that it could be mailed via the U.S. Postal Service First Class Mail since express mail was not being accepted.

4. I acted in good faith on this information and I believed that this procedure would accord the filing date as that date on the Certificate of Mailing. I deposited the documents identified on the enclosed return postcard with the U.S. Postal Service as First Class Mail on December 4, 2001 to: The Honorable Commissioner of Patents, U.S. Patent and Trademark Office, P.O. Box 2327, Box Patent Application, Arlington, VA 22201.

...

Petitioners request that the application be accorded a filing date of November 30, 2001, rather than the currently accorded filing date of December 10, 2001.

At the outset, petitioners are reminded that Certificate of Mailing Procedures do not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date.[1]

[1] 37 CFR 1.8(a)(2)(I)(A).

The guidance set forth in the above-mentioned Official Gazette notice and posted on the Internet set on November 20, 2001, is reproduced below, in pertinent part.[2]

UNITED STATES POST SERVICE INTERRUPTIONS RELATING TO EXPRESS MAIL SERVICE

Where the USPS refuses to accept the deposit of mail for delivery by express mail.

In some cases, due to the recent emergency, certain post offices are refusing to accept the deposit of mail for delivery by Express Mail service. The USPTO is also designating this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). In addition, if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail under 37 CFR 1.10 ("Express Mail Post Office to Addressee") and the USPS refuses to accept such correspondence, the party is advised to take the following action: mail the correspondence to the USPTO by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence with the USPS and that the USPS refused to accept the correspondence. The statement must be signed in accordance with 37 CFR 10.18. The correspondence should be mailed as set out in 37 CFR 1.1(a) and include the special box designation: BOX FILING DATE.

Where mail is put into an Express Mail "Drop Box" and given an incorrect "date in".

In some cases a person may use an Express Mail "drop box" without realizing that the local post office is not accepting Express Mail. In that situation, the provisions of 37 CFR 1.10(d) may apply. Usually 37 CFR 1.10(d) is invoked where correspondence is placed in an Express Mail "drop box" prior to the last pick up that is scheduled for the drop box for that day, but the USPS enters an incorrect "date-in" on the Express Mail mailing label, usually the next day's date. To invoke 37 CFR 1.10(d), however, a petition must be corroborated either by evidence from the USPS or by evidence that came into being after deposit and within one business day of the deposit of the correspondence in the Express Mail

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[2] See, United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (October 9, 2001).

drop box (e.g., a copy of a log book indicating that the correspondence was deposited on the date in question). See MPEP 513 and TMEP 702.02(e).

Alternative Procedure Invoking "Extraordinary Circumstances"

If a party can demonstrate that due to extraordinary circumstances the above procedures could not be followed, it will be necessary to file a petition under 37 CFR 1.183 (patent matter) or 2.146(a)(5) and 2.148 (trademark matter) to waive the requirements of 37 CFR 1.10 to permit the USPTO to accord the correspondence a filing date as of the date that Express Mail deposit was attempted. *Such a petition must be accompanied by a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail, stating the date that the deposit was attempted and that the USPS refused to accept the correspondence, and be signed by such person subject to the conditions prescribed in 37 CFR 10.18.*

Certificates of Mailing Under 37 CFR 1.8

Parties submitting correspondence to the USPTO are reminded that 37 CFR 1.8 (certificate of mailing or transmission practice) does not provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8. *Therefore, it would be inappropriate to file a petition under 37 CFR 1.183 or 2.146(a)(5) and 2.148 to waive the requirements of 37 CFR 1.8.*

(emphasis added)

In the present case, there is no showing that petitioners attempted to deposit the application papers by Express Mail, nor that an attempted deposit of the application papers by Express Mail was refused by the USPS. As such, petitioners have not met the requirements set forth in the above-referenced Official Gazette Notice (Notice) for filing a petition 37 CFR 1.183 to waive the requirement of 37 CFR 1.10. Additionally, the Notice clearly states that 37 CFR 1.8 (certificate of mailing or transmission practice) does *not* provide for according a filing date as of the date of deposit with the USPS to correspondence submitted under 37 CFR 1.8.

As the showing of record is that petitioners never attempted to deposit the present application papers by Express Mail, but instead simply mailed the application papers by first-class mail

with a certificate under 37 CFR 1.8, petitioners have not met the requirements for a grantable petition under 37 CFR 1.183 as set forth in the above-referenced Notice.

Furthermore, in reference to Ms. Werner's statement that she was acting in good faith and believed that the USPTO would accord a filing date as of the date of the Certificate of Mailing, to the extent the USPTO might have any discretion in this matter, the circumstances of this application do not demonstrate that justice requires extraordinary relief.

37 CFR 1.183 states:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interest party, subject to such other requirements as may be imposed.[3] Petitioner has not shown that either condition exists in this case.

It is well-established that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures under 37 CFR 1.183.[4] Waiver of the rules is not warranted when a party makes an avoidable mistake in filing papers.[5]

Thus, a lack of knowledge of, or the failure to properly apply, the patent statutes, rules of practice, and procedures before the USPTO is not an adequate basis for requesting extraordinary relief. Specifically, circumstances resulting from petitioners', or petitioners' counsel's, failure to exercise due care or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice

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[3] In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

[4] See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995).

[5] Nitto Chem. Indus. Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

require the granting of relief.[6] Likewise, clerical inadvertence or error is not a ground for requesting waiver of the regulations.[7]

Accordingly, petitioners have not made the showing required to invoke "Extraordinary Circumstances" as set forth in the Official Gazette Notice, *Notification Related to United States Postal Service Interruption*.[8] Therefore, the petition is **dismissed**.

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

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

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

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

The application is being forwarded to Technology Center 1600 for examination in due course with the presently accorded filing date of December 10, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

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

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[6] See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc. 195 USPQ 586, 588 (Comm'r Pats. 1977).

[7] See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

[8] See note 2, supra.

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#14

PAULEY PETERSEN & ERICKSON
2800 W. HIGGINS ROAD, SUITE 365
HOFFMAN ESTATES, IL 60195

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Jian Qin :
Application No. 10/006,781 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. KCC-15,915

This is a decision on the petition, filed March 25, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 1754 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

In re Application of	:	
Hitoshi Fukushima et al.	:	
Application No. 10/006,794	:	DECISION ON PETITION
Patent No. 7,098,145	:	PURSUANT TO
Filed: December 4, 2001	:	37 C.F.R. § 3.81(B)
Issue Date: August 29, 2006	:	
Attorney Docket Number: 9319S-000311/CPA	:	
Title: FABRICATION OF SELF-ASSEMBLED MONOLAYERS	:	

This is a decision on the "PETITION TO STATE THE NAME OF SECOND ASSIGNEE ON ISSUED PATENT," filed July 20, 2007, which is properly treated as a petition pursuant to 37 C.F.R. § 3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

This petition is **DISMISSED AS INAPPROPRIATE.**

Petitioner states that an error appears on the face of the patent, as the Assignee (Cambridge University Technical Services Limited of the U.K.) was omitted.

The present request pursuant to 37 C.F.R. § 3.81(b) was accompanied by a request for a certificate of correction, a draft certificate of correction, the processing fee, and the certificate of correction fee.

Petitioner has made the following assertions:

1 See Official Gazette, June 22, 2004.

1. there are two assignees that are involved with this patent;
2. prior to the payment of the issue fee, an assignment document was sent to the Office for recording, and the Office failed to record the second assignee, Cambridge University Technical Services Limited (this document was received in the Office on July 17, 2002);
3. this error was corrected via an unspecified means on an unspecified date, and;
4. the Office mailed a "corrected notice" on June 7, 2007, listing both Assignees.

The assignment document that was submitted to the Office on July 17, 2002 has been reviewed, and it is clear that it does not constitute an assignment of patent rights to the assignee listed thereon (Cambridge University Technical Services Limited), due to the fact that the field "[n]ame of conveying parties" has been left blank. As such, while it is clear that the individual who prepared this document intended for Cambridge University Technical Services Limited to be the Assignee, **there is no Assignor listed thereon**, and a valid assignment requires both an Assignor and an Assignee. Without an Assignor to convey rights to an Assignee, there can be no conveyance of rights. As such, **the submission of July 17, 2002 does not constitute an assignment** in regards to Cambridge University Technical Services Limited.

In regards to the corrected notice on June 7, 2007, it is noted in passing that MPEP § 301(V)(A) sets forth, *in pertinent part*:

> It should be noted that recording of the assignment is merely a ministerial act; it is not an Office determination of the validity of the assignment document nor the effect of the assignment document on the ownership of the patent property. See 37 CFR 3.54 and MPEP § 317.03…

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Since it does not appear that an assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, this petition is not appropriate.

The certificate of correction fee will be refunded to Petitioner's Deposit Account in due course. The processing fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Hitoshi Fukushima et al. :
Application No. 10/006,794 : DECISION ON RENEWED
Patent No. 7,098,145 : PETITION PURSUANT TO
Filed: December 4, 2001 : 37 C.F.R. § 3.81(B)
Issue Date: August 29, 2006 :
Attorney Docket Number: 9319S- :
000311/CPA :
Title: FABRICATION OF SELF- :
ASSEMBLED MONOLAYERS :

This is a decision on the "Second PETITION TO STATE THE NAME OF SECOND ASSIGNEE ON ISSUED PATENT," filed July 1, 2008, which is properly treated as a renewed petition pursuant to 37 C.F.R. § 3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

This renewed petition is **GRANTED**.

Petitioner states that an error appears on the face of the patent, as the Assignee (Cambridge University Technical Services Limited of the U.K.) was omitted.

An original petition pursuant to 37 C.F.R. § 3.81(b) was filed on July 20, 2007, and was dismissed via the mailing of a decision on June 18, 2008.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

1 See Official Gazette, June 22, 2004.

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on July 24, 2002 (Reel/Frame 013103 / 0007). This was prior to the issuance of the present patent on August 29, 2006.

The original request pursuant to 37 C.F.R. § 3.81(b) was accompanied by a request for a certificate of correction, a draft certificate of correction, the processing fee, and the certificate of correction fee, as required by Rule § 3.81(b). Accordingly, as the request complies with the provisions of Rule § 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

It is noted that the assignment document itself contains the names of both assignees.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225[2]. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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Paper No. 16

ATTN: JOHN P. IWANICKI
BANNER & WITCOFF, LTD.
28 STATE STREET
28TH FLOOR
BOSTON MA 02109-9601

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Eija Pirhonen, et al. :
Application No. 10/006,800 :
Filed: December 4, 2001 :
Attorney Docket No. 01942-00008 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 15, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1615 for further processing of the request for continued examination under 37 CFR 1.114.

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

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

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

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JAN 0 6 2003

OFFICE OF PETITIONS

In re Application of :
William A. McMillan et al :
Application No. 10/006,848 : NOTICE
Filed: November 7, 2001 :
Attorney Docket No. 22660-0019 DIV3 :

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 1744.

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

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Arnold & Porter LLP
1400 Page Mill Road
Palo Alto, CA 94304

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APR 02 2010

OFFICE OF PETITIONS

In re Application of :
Goddard et al. : ON APPLICATION FOR
Application No. 10/006,856 : PATENT TERM ADJUSTMENT
Filed: December 6, 2001 :
Atty Docket No. 24126-198 :
(GNE-2830 P1 C14) :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed April 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand twenty-eight (1028) days, not one hundred thirty-seven (137) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office will charge the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

adjustment under 37 CFR 1.705(b) to Deposit Account 50-2387 as authorized.

The Office notes that the address given in the petition differs from the address of record; however, the application file does not indicate that a change of correspondence address was filed in this case. If the petitioner desires to receive future correspondence regarding this application, a change of correspondence address must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the petition.

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

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

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APR 05 2010

OFFICE OF PETITIONS

Arnold & Porter LLP
1400 Page Mill Road
Palo Alto, CA 94304

In re Patent No. 7,538,086	:	DECISION ON REQUEST FOR
Goddard et al.	:	RECONSIDERATION OF
Issue Date: May 26, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/006,856	:	NOTICE OF INTENT TO ISSUE
Filed: December 6, 2001	:	CERTIFICATE OF CORRECTION
Atty Docket No. GNE-2830-014	:	

This is a decision on the petition filed on Monday, July 27, 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 twenty-eight (1028) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one thousand twenty-six (1026) days**.

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 7, 2004, and ends on October 3, 2007, the day before the RCE was filed, and is 1031 (not 1032) days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentee acknowledges that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

However, patentee's calculation of the number of days consumed by appellate review is incorrect.

In this instance, the period consumed by appellate review is 142 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed,[1] February 2, 2006, and ending on the date of the mailing of the non-final Office action, July 13, 2006. Thus, the B delay is 889 days (1031 - 142).

Accordingly, the patent term adjustment is 1026 days (511 days of A delay + 889 days of B delay - 374 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is 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 will charge the $200.00 fee set forth in 37 CFR 1.18(e) to Deposit Account No. 50-2387 as authorized.

The Office notes that the address given in the petition differs from the address of record; however, the application file does not indicate that a change of correspondence address was filed in this case. If the petitioner desires to receive future correspondence regarding this application, a change of correspondence address must be submitted. The Office will continue to send correspondence to the address of record until otherwise notified. As a one-time courtesy, the Office will mail a copy of the decision to the address listed on the petition.

This matter is being referred 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 **one thousand twenty-six (1026) days.**

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[1] "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park CA 94025-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,538,086 B2

DATED: May 26, 2009 **DRAFT**

INVENTOR(S): Goddard 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 658 days

Delete the phrase "by 658 days" and insert – by 1026 days--

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)
6,665,898	2003-12-23	10/006,857	2001-12-03	GOR1-F43

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Karl M. Steins/	Date (YYYY-MM-DD)	2008-04-02
Name	Karl M. Steins	Registration Number	40186

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6665898
Issue Date: December 23,2003
Application No. 10006857
Filed: December 3,2001
Attorney Docket No. GOR1-F43

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

This is a decision on the electronic petition, filed April 2,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Patent No. 6,767,182 :
Issue Date: August 3, 2004 :
Application No. 10/006,868 : ON PETITION
Filed: October 26, 2001 :
Patentee: Deron C. McCabe :

This is a decision in response to a petition, filed July 10, 2009, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired on August 3, 2008 for failure to pay the first 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 is timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition is **GRANTED**.

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that the petition is signed by the inventor, Deron C. McCage; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted.

Petitioner is advised that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) must also be submitted.

A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DERON MCCABE
200 RODER ROAD
ORMOND BEACH, FL 32174

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OCT 23 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 5

EXPANSE NETWORKS, INC.
6206 KELLERS CHURCH ROAD
PIPERSVILLE PA 18947

In re Application of:
PLOTNICK et al.
Application No. 10/006,874
Filed: November 14, 2001
For: **ALTERNATIVE ADVERTISING IN PRERECORDED MEDIA**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed July 8, 2002 and fax copy of original submission filed September 24, 2003 (original petition submission located within the application) under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petition meets all the above-listed 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. After mailing, the application will be forwarded to the examiner for immediate handling.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON, DC 20005

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JUL 23 2004

OFFICE OF PETITIONS

In re Application of :
Jean De Rigal, et al. :
Application No. 10/006,886 : ON PETITION
Filed: December 10, 2001 :
Attorney Docket No. 08048.0021-00 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 8, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 2877 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 6

WILLIAM SCHMONSEES
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

OCT 1 7 2002

OFFICE OF PETITIONS

In re Application of
William A. McMillan et al
Application No. 10/006,904
Filed: November 7, 2001
Attorney Docket No. 020048-002560US

NOTICE

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

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

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

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

This file is being forwarded to Technology Center 1700.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

BEYER WEAVER & THOMAS
P.O. BOX 778
BERKELEY, CA 94704-0778

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OCT 0 8 2002

OFFICE OF PETITIONS

In re Application of :
John P. Del Favero Jr. et al :
Application No. 10/006,930 : NOTICE
Filed: December 6, 2001 :
Attorney Docket No. PROQP004 :

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 2172.

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

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DERGOSITS & NOAH LLP
FOUR EMBARCADERO CENTER, SUITE 1450
SAN FRANCISCO, CA 94111

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NOV 29 2006

OFFICE OF PETITIONS

In re Application of :
John P. Del Favero, Jr., et al. :
Application No. 10/006,930 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 770.02 :

This is a decision in response to the petition, filed May 30, 2006, 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 September 23, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2163 for consideration of the amendment filed May 30, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

MAY 12 2009

OFFICE OF PETITIONS

In re Application of :
Del Favero et al. :
Application No. 10/006,930 : ON APPLICATION FOR
Filed: December 6, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-3074 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed January 8, 2009. Applicants submit that the final patent term adjustment should be five hundred sixty-four (564) days. Referring to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), 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 after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on May 6, 2008.

The determination of the patent term adjustment at the time of the mailing of the notice of allowance remains three hundred eight (308) days.

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

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded and is not consumed by the filing of a request for continued examination).

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
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Paper No.

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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MAR 08 2010

In re Patent No. 7,548,899	:	DECISION ON REQUEST
Del Favero et al.	:	FOR
Issue Date: June 16, 2009	:	RECONSIDERATION OF
Application No. 10/006,930	:	PATENT TERM ADJUSTMENT
Filed: December 6, 2001	:	and
Atty Docket No. 088245-3074	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 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 four hundred eighty-two (482) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred eighty-two (482) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on January 8, 2009. No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred eighty-two (482)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,548,899 B1

DATED : **June 16, 2009** **DRAFT**

INVENTOR(S) : Del Favero, Jr. 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 227 days

Delete the phrase "by 227 days" and insert – by 482 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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COUDERT BROTHERS LLP
333 SOUTH HOPE STREET
23RD FLOOR
LOS ANGELES, CA 90071

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Psaltis et al.	:	
Application No. 10/006,933	:	ON PETITION
Filed: December 4, 2001	:	
Attorney Docket No. 0007975-0018	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 25, 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 July 7, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 8, 2004.

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

This matter is being referred to Technology Center 2800 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Schafer et al :
Application Number: 10/006,962 :
Patent: 6,743,835
Attorney Docket Number: 512425-2068 :
Filing Date: December 5, 2001 :
Issue Date: June 1, 2004 : DECISION ON PETITION
:

This is a decision on the petition to correct the assignee under 37 CFR 1.183 filed on February 18, 2005. The petition is properly treated 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**.

Petitioner has submitted a $400.00 petition fee. Pursuant to petitioner's request deposit account 50-0320 is being refunded $270.00. The certificate of correction pursuant 37 CFR 1.20 (a) fee is $100.00 and the processing fee pursuant to 37 CFR 1.17(l) is $130.00. A petition fee is no longer required.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

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

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NOV 0 7 2007

OFFICE OF PETITIONS

In re Application of :
David Green et al. :
Application No. 10/006,971 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 22728-06523 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 10, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 11, 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 and an Oath and Declaration (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that

such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business on the reply received on March 3, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Steven S. Cady
SBS Interactive Co.
20101 SW Birch Street, Suite 130-H
Newport Beach, CA 92660

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/14/2007

TO SPE OF : ART UNIT 2600 (2616)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,054,392
Attn: Jean B. Corrielus

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location 7580 or forward *(IFW) to scanning using document code **COCX**.

***Ok to enter changes to title as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

_____

_____

_____

_____

_____

Chris Kelley — **SPE**

2611 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

CARLSON, GAKSEY & OLDS, P.C.
400 West Maple Road
Suite 350
Birmingham, MI 48009

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MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Welty et al. :
Application No. 10/007,021 : ON PETITION
Filed: November 5, 2001 :
Attorney Docket No. 60,137,158; 270-3038-U :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 27, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became technically abandoned on May 28, 2002. A Notice of Abandonment was mailed on September 25, 2002.

Telephone inquiries concerning this decision should be directed to Phillip Gambel at (703) 305-4066.

The application file is being forwarded to Technology Center 1700 for further processing.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

COPY MAILED

JUN 05 2002

OFFICE OF PETITIONS

In re Application of :
David A. Evans :
Application No. 10/007,055 : DECISION GRANTING PETITION
Filed: December 6, 2001 :
Attorney Docket No. :
E0353/7005/PCL :

This is a decision on the Petition for Filing Date based upon an Express Mailing Certificate under 37 CFR 1.10(a), filed on April 22, 2002, requesting that the above-identified application be accorded a filing date of December 6, 2001, rather than the presently accorded filing date of November 6, 2001.

The Petition is **granted**.

Petitioner alleges the application was deposited in "Express Mail" service with the U.S. Postal Service, on December 6, 2001. In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no. EL844534986US, indicating a "date-in" of December 6, 2001. Additionally, the Application Transmittal Form identifies that the above-identified application, with attorney docket number E0353/7005/PCL, was deposited via Express Mail with the same Express Mail mailing label, receipt no. EL844534986US.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail mailing label. *See* MPEP §513. The date indicated on the "date-in" on the Express Mail mailing label verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 6, 2001. Accordingly, the application is accepted as filed on December 6, 2001.

The application is being forwarded to Office of Initial Patent Examination for further processing, including the mailing of a corrected filing receipt with a filing date of December 6, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Derek L. Woods at 703-305-0014.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : MARCH 7, 2007

TO SPE OF : ART UNIT 3752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/007061 Patent No.: 7150409 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

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: _____

_____

_____

_____

_____

Kevin P. Shaver — SPE

3752 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED

JAN 10 2008

OFFICE OF PETITIONS

In re Application of
Peter Rastello, et. al.
Application No. 10/007,087
Filed: December 6, 2001
Attorney Docket No. TI-32201

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The application became abandoned for failure to timely file a reply to the final Office action mailed December 27, 2006.

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

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

This application is being referred to Technology Center Art Unit 2611, to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Peter Rastello	: DECISION ON REQUEST FOR
Patent Number	: 7586993	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/007,087	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1419** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Date Mailed : 01/27/09

Patent No. : RE39959 E
Inventor : SUDO, FUKUHARU
Patent Issued : 12/25/07
Docket No. : **7217/47270-Z-RE/JHM/KJB**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the file of the application for the patent reveals that in column 20, line 34 is printed in accordance with the record (no fee or authorization to charge fee). **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

Lmn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/29/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10007104 Patent No.: RE39959 E

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 9D40-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Appl. No. 10007104

SPE

2618
Art Unit

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

In re application of
Todd B. Sullivan et al.
Application No. 10/007,107 : DECISION ON REQUEST
Filed: December 04, 2001 : FOR WITHDRAWAL OF
For: CUSTOMER DATA COLLECTION : ATTORNEY

This is a decision on the request filed on September 17, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the attorney signing the request does not now have power of attorney in this application.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KJD/slb: 10/26/04

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Paper No. 6

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

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OFFICE OF PETITIONS

In re Application of :
Walker et al. :
Application No. 10/007,108 : DECISION GRANTING
Filed: November 12, 2001 : PETITION
Attorney Docket No. 97-051-C1 :

This is a decision on the petition filed March 26, 2002, to accord the above-identified application a filing date of November 12, 2001.

On November 12, 2001, the application was filed.

On March 14, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on November 12, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Drawings (19 sheets: Figs 1-7B)" on November 12, 2001.[1] Petitioner has also submitted a copy of the missing documentation- 19 sheets of drawings.

Upon review of the record, the drawings deposited on November 12, 2001, have not been located. However, the evidence is convincing that the application papers deposited on November 12, 2001, included drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of November 12, 2001.

In view of the above, the petition is **granted**. The copy of the 19 sheets of drawings submitted with the petition will be used for examination purposes.

The petition fee of $130 previously charged to petitioner's deposit account will be credited to the deposit account.

The Notice mailed March 14, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2001, using the application papers filed on November 12, 2001, and the copy of the 19 sheets of drawings filed on March 26, 2002.

---

[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.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Byrne Poh LLP
11 Broadway, Ste 865
New York, NY 10004

Mail Date: 05/03/2010

Applicant	: Alfred Eisenberg	: DECISION ON REQUEST FOR
Patent Number	: 7631039	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/007,129	: 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 **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

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OFFICE OF PETITIONS

In re Application of	:	
Alexander et al.	:	
Application No. 10/007,136	:	ON PETITION
Filed: December 3, 2001	:	
Attorney Docket No. VIGL118276	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 9, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

The 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.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

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OFFICE OF PETITIONS

In re Application of :
Lyn Hughes :
Application No. 10/007,140 : ON PETITION
Filed: November 5, 2001 :
Attorney Docket No. A01317 :

This is a decision on the petition, filed July 1, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 22, 2005, using a Certificate of Mailing or Transmission dated February 17, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1743 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Lyn Hughes :
Application No. 10/007,140 : DECISION GRANTING PETITION
Filed: November 5, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. A01317 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 4, 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 January 3, 2007, 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 1797 to consider the reply received September 4, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 8

KEVIN B. LAURENCE
STOEL RIVES LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET
SUITE 1100
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of
Michael N. Macris et al.
Application No. 10/007,143
Filed: November 5, 2001
Attorney Docket No. 11493/6:4

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

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

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. 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.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 5, 2001 naming Michael N. Macris and David Dobney as joint inventors, but without a without a signed declaration.

Accordingly, on March 28, 2002, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on August 23, 2002, the present petition was filed with a request for a three month extension of time. Petitioners assert that a cover letter, the Application, a Declaration, a Preliminary Amendment, and an Assignment were sent to both inventors but that the envelope containing the packet sent to David Dobney was returned by the postal service as undeliverable. In support thereof, Petitioners provide a copy of the envelope which indicates the forwarding order has expired. Petitioners further state that they have been unable to locate Dobney.

A grantable petition under 37 CFR 1.47(a) requires:

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

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (1) and (4).

Petitioners must present a showing that diligent efforts have been made to locate the non-signing inventor.[1] 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.

[1] MPEP 409.03(d).

Additionally, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate Dobney, send or give a copy of the application papers to him, and request that he sign and return the declaration. A brief Internet search conducted by the undersigned reveals that Dobney may now be living in Marysville, MI. If repeated attempts to contact Dobney by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Dobney cannot be found despite diligent efforts.

Additionally, since only a copy of the envelope sent to Dobney's last known address was provided, it is unclear whether the papers sent to Dobney are, in fact, the application papers filed in the USPTO on November 5, 2001. A copy of the cover letter transmitting the specification, including claims, drawings, if any, and the declaration, should be submitted with any renewed petition. Alternatively, petitioners may provide details in an affidavit or declaration of facts by a person with first hand knowledge of the details, stating that a copy of the application was sent or given to Dobney for review.

If Dobney refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If there an oral refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

In regards to item (4), as it appears that Dobney may now be residing at a different address than that listed in the initial petition, petitioners should verify the correct last known address for joint inventor Dobney, and provide a statement of the last known address in a renewed petition.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

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

Patricia Faison-Ball

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 10

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APR 0 3 2003

OFFICE OF PETITIONS

STOEL RIVES LLP
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY UT 84111

In re Application of
Michael N. Macris et al.
Application No. 10/007,143
Filed: November 5, 2001
Attorney Docket No. 11493/6:4

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

This is in response to the request for reconsideration, filed November 15, 2002.

The petition is GRANTED.

The above-identified application was filed on November 5, 2001. The application names Michael N. Macris and David Dobney as joint inventors. The declaration is signed by inventor Macris only. The applicant files this petition alleging that joint inventor David Dobney cannot be located and seeks status under 37 CFR 1.47(a).

By declaration of Mara K. Featherstone, an Attorney on behalf of American Polymer, the applicant has been unable to locate David Dobney, that they have attempted to contact him by E-mail and by telephone, and that they mailed a copy of the application papers to the last known address. Petitioners further assert that the correspondence mailed to Mr. Dobney was returned as undeliverable with no forwarding address.

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

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

CHARLES W. ASHBROOK
WARNER - LAMBERT COMPANY
2800 PLYMOUTH ROAD
ANN ARBOR, MI 48105

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MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Brandman et al.
Application No. 10/007,158
Filed: December 5, 2001
Attorney Docket No. A0000483-01-CA

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 4, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 5, 2003. A Notice of Abandonment was mailed on January 12, 2004.

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

The Notice of Appeal filed February 17, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. The change of correspondence address filed February 17, 2004, cannot be accepted because it was not signed by an attorney of record. See MPEP §§ 601.03 and 405. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional,

petitioner must notify the Office.

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

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: RAYMOND R. MANDRA
FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas J. Perkowski, Esq. P.C.
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

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SEP 02 2008

In re Application of :
Kathleen Tyson-Quah :
Application No. 10/007,179 : DECISION ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 126-002USANO :

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 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 pay the issue and publication fees on or before March 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2007. Accordingly, the date of abandonment of this application is March 15, 2008. A Notice of Abandonment was mailed on April 18, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

As to item (3) no statement was provided that 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.

Petitioner requested that the petition to revive be considered as a withdrawal of holding of abandonment. Review of the application file finds that on March 17, 2007 the Office received the issue fee transmittal form authorizing the Office to charge the issue fee payment from deposit account 16-1340. On March 17, 2007 an attempt was made to charge the issue fee. The account balance was insufficient to cover the $720.00 issue fee. Our records show that the account balance at the time of the attempt was $264.50. Therefore the request to withdraw holding of abandonment is DENIED. The petition fee of $770 will be charged to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas J. Perkowski, Esq. P.C.
Soundview Plaza
1266 East Main Street
Stamford, CT 06902

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of :
Kathleen Tyson-Quah :
Application No. 10/007,179 : DECISION ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 126-002USANO :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 6, 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 March 14, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 14, 2007. Accordingly, the date of abandonment of this application is March 15, 2008. A Notice of Abandonment was mailed on April 18, 2008.

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 $720 and the publication fee of $300, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The petition decision mailed on September 2, 2008 dismissed the petition filed on April 28, 2008 for failure to provide a proper statement of unintentional delay. The renewed petition includes a proper statement.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

MAILED

MAR 29 2010

OFFICE OF PETITIONS

In re Tyson-Quah	:	DECISION ON REQUEST
Patent No. 7,523,054	:	FOR
Issue Date: April 21, 2009	:	RECONSIDERATION OF
Application No. 10/007,179	:	PATENT TERM ADJUSTMENT
Filed: October 22, 2001	:	and
Atty Docket No. 32052195US6	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 22, 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 six hundred seventy-seven (1677) 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 six hundred seventy-seven (1677) days is **GRANTED to the extent indicated herein.**

Patentee asserts the correct patent term adjustment is 1,677 days.

When calculating the revised patent term adjustment to appear on the patent, the Office determined the amount of "A delay" was 1,784 days, which is the sum of 1,548 days of day under 37 CFR 1.702(a)(1) and 236 days of delay under 37 CFR 1.703(a)(6). Patentee asserts the period of A delay is 1,548 days and does not address the 236 day adjustment.

37 CFR 1.703(a)(6) states,

> [The patent term adjustment includes the] number of days, if any, in the period beginning on the day after

> the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

The instant application went abandoned for failure to timely reply to the Notice of Allowance mauled December 14, 2007. A decision reviving the application and accepting the delayed payment of the issue fee was mailed March 11, 2009. In other words, all of the outstanding requirements for issuance of a patent were satisfied on March 11, 2009. The patent issued on April 21, 2009, within four months of March 11, 2009. Therefore, an increase of 236 days of delay under 37 CFR 1.703(a)(6) is unwarranted.

In view of the prior discussion, the Office agrees with patentee's assertion the period of A delay is 1,548.

The Office concurs with patentee's calculation of the B delay period (beginning on October 23, 2004 and ending on April 21, 2009) and with patentee's determination of the number of overlapping days between A and B delay(beginning on October 23, 2004 and ending on March 19, 2007).

Patentee agrees with the Office's prior determination the period of delay under 35 U.S.C. 154(b)(2)(C) ("Applicant delay")is 635 days. However, a review of the record indicates the period of Application delay is 467 days.

The 635 day reduction included three periods of reduction based on conduct that took place after the Office mailed a Notice of Allowance on December 14, 2007. The three periods of reduction included a 329 day reduction under 37 CFR 1.704©(3), a 45 day reduction under 37 CFR 1.704(b), and a 120 day reduction under 37 CFR 1.704(c)(10).

The Office has determined the proper period of delay under 37 CFR 1.704(c)(3) is 326 days. To the extent any other Applicant delay accrued after the Office mailed the Notice of Allowance, the additional delay overlaps and is encompassed within the 326 day period of delay.

In view of the prior discussion, the period of Applicant delay is 467 days, which is the sum of 141 days of Applicant delay

incurred prior to the Office mailing a Notice of Allowance and 326 days incurred after the Office mailed a Notice of Allowance. As such, the patent term adjustment is 1,845 days, which is the sum of 1,548 days of A delay and 1,642 days of B delay reduced by 878 days of overlap between the periods of A delay and B delay and reduced by 467 days for Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR § 1.136.

The 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 **one thousand eight hundred forty-five (1845)** days.

Telephone inquiries should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,523,054 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Tyson-Quah

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1149 days

Delete the phrase "by 1149 days" and insert – by 1845 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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Eyal S. Ron
7 Coach Road
Lexington, MA 02420

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Eyal S. Ron, et. al. :
Application No. 10/007,184 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 028.02140PO2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2004, to revive the above-identified application.

In response to the final Office action mailed January 23, 2004, petitioner hereby submits $684 for the petition to revive fee, a Notice of Appeal with the required fee of $170, and the statement of unintentional delay.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The 2-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

This application is being referred to Technology Center Art Unit 1616.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE: D. Payne

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/25/07

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/002,191 Patent No.: 7055131

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: _____

Chris Kelley
SPE

2611
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CLARK & ELBING LLP
101 FEDERAL ST
BOSTON MA 02110

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SEP 15 2005

OFFICE OF PETITIONS

In re Patent No. 6,893,665	:	DECISION ON
Lawter, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: May 17, 2005	:	AND
Application No. 10/007,197	:	NOTICE OF INTENT
Filed: December 4, 2001	:	TO ISSUE
Attorney Docket No. 500476/024004	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", filed July 20, 2005. Patentee requests that the patent term adjustment indicated on the patent be corrected from zero (0) days to seventy-one (71) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seventy-one (71)** days.

On May 17, 2005, the above-identified application matured into U.S. Patent No. 6,893,665. The instant request for reconsideration filed July 20, 2005 was timely filed.[1] See § 1.705(d). The Patent issued with a Patent Term Adjustment of zero (0) days. Patentees state that the determination of patent term adjustment days should not have been assessed applicant delay of one hundred twenty (120) days for responding to an August 11, 2004 Notice of Allowance on November 12, 2004.

[1] The request for reconsideration contained a Certificate of Mailing dated July 18, 2005. July 17, 2005 fell on a Sunday. See 37 C.F.R. § 1.7(a).

Applicants were assessed one hundred twenty (120) days of delay for the paper titled "REPLY TO NOTICE OF ALLOWANCE", in which applicants included a change of correspondence address. The adjustment of one hundred twenty (120) days for the filing of this paper has been found to be incorrect.[2] Accordingly, applicant delay with respect to this filing should have been zero (0) days.

In view thereof, the correct determination of PTA at the time of issuance is seventy (70) days (164 (55+66+43) days of PTO delay, reduced by 93 (1+1+91) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seventy-one (71)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: draft certificate of correction

[2] See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. 111 (June 26, 2001).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

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MAY 10 2002

OFFICE OF PETITIONS

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

In re Application of
Shrinivasan, et al.
Application No. 10/007,227
Filed: November 7, 2001
Attorney Docket No. NOVEP012
For: METHOD AND APPARATUS FOR SEALING SUBSTRATE LOAD PORT IN A HIGH PRESSURE REACTOR

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed March 18, 2002 (Certificate of Mailing date of March 6, 2002).

The petition is **GRANTED**.

Petitioner has shown that inventor Vladimir Starov 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 L. Gencarella, counsel of record, establishes that the application papers were sent to the inventor on at least two separate occasions and that despite numerous efforts to contact the inventor, the inventor has failed to respond to requests 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 last known address indicated in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to 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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

VLADIMIR STAROV
14720 SKYLANE BOULEVARD
LOS GATOS, CA 95032

In re Application of
Shrinivasan, et al.
Application No. 10/007,227
Filed: November 7, 2001
Attorney Docket No. NOVEP012
For: METHOD AND APPARATUS FOR SEALING SUBSTRATE LOAD PORT IN A HIGH PRESSURE REACTOR

LETTER

COPY MAILED

MAY 1 0 2002

OFFICE OF PETITIONS

Dear Sir:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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.GO

NOV 29 2002

#6

Gaetano D. Marccarone
500 Arsenal Street
Watertown, MA 02472

In re Application of	:	
Or et al.	:	
Serial No.: 10/007,235	:	DESICION ON PETITION
Filed: October 22, 2001	:	
Attorney Docket No.: ENP-036	:	

This is in response to applicants' request for withdrawal of holding of abandonment, filed August 22, 2002.

A review of the file history indicates the examiner mailed a Restriction Requirement on February 7, 2002. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed November 18, 2002. On August 22, 2002, the present petition was filed. Applicant asserts that the Restriction Requirement dated February 7, 2002 was never received. Based on the statements and evidence provided it is concluded that the Office action dated February 7, 2002 was never received by applicant. Accordingly, the petition is Granted.

Applicants' petition is **GRANTED**.

The delay of responding to this petition is regretted. The application has been returned to pending status. The Office action dated February 7, 2002 is being re-mailed herewith. The shortened statutory period for reply is set to expire ONE MONTH from the mailing date of this letter.

Should there be any questions regarding this decision, please contact Cecilia Tsang by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-0254 or by facsimile transmission at (703) 305-7230.

Cecilia Tsang for
Bruce Kisliuk
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-24-06

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/007236 Patent No.: 7034123

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.

Check Inventors

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

manjunath

SPE (MANJUNATH RAO) 1647 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 20 2007

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HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

In re Patent No. 7,034,123 DESNOYERS et al
Issue Date: April 25, 2006
Appl No.: 10/007,236
Filed: December 6, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 11, 2007, 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.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: September 19, 2007
TO: Certificates of Correction Branch
FROM: William R. Dixon, Jr.
Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,034,123 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,034,123
Patented: April 25, 2006

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:

Luc Desnoyers
Audrey Goddard
Paul J. Godowski
Austin Gurney
William I. Wood
Ellen Filvaroff

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

COPY MAILED

DEC 27 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth Russell Mills et al :
Application No. 10/007,242 : DECISION GRANTING PETITION
Filed: November 10, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. PTU000002 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 20, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

The application file is being referred to Technology Center AU 2684.

Karen Ceasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AUG 23 2004

BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

In re Application of	:
Annette Bistrup et al	:
Serial No.: 10/007,262	: PETITION DECISION
Filed: November 8, 2001	:
Attorney Docket No.: UCAL-107DIV	:

This is a response to the petitions under 37 CFR 1.59(b), filed April 26, 2004, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that a document submitted April 26, 2004, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The examiner has considered the documents and found them not to have an adverse impact on the patentability of the present claims. In view of the examiner's the information is being returned with this decision

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

BILLY C. ALLEN III
HOWREY SIMON ARNOLD & WHITE
750 BERING DRIVE
HOUSTON TX 77057-2198

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JAN 3 1 2003

OFFICE OF PETITIONS

In re Application of
Russell E. Shetler, Jr. et al.
Application No. 10/007,273
Filed: October 26, 2001
Attorney Docket No.
11564.0028.NPUS01/ALL

DECISION ACCORDING
STATUS UNDER
RULE 47(a)

This is in response to the petition under 37 CFR 1.47(b), which is being considered as being filed under 37 CFR 1.37 (a)[1] filed October 28, 2002.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on January 8, 2002, indicating that oath or declaration was missing. The Notice also advised petitioner that a $130.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). In response thereto, petitioner filed a declaration without the signature of inventor Andrew Thomas Margraff, a petition for a three (3) month extension of time and the requisite late surcharge fee. On June 26, 2002 a Notice of Incomplete Response was mailed to petitioner, indicating that the signature of inventor "Andy Margraff" was missing.

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although inventor Margraff was presented with a complete copy of the application papers, the inventor has, to date, failed to execute the same. Inventor Margraff's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers,

and 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.

Pursuant to the authorization provided by petitioner, Deposit Account 01-2508 will be charged $130.00 for the petition fee.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See MPEP 409.03 (a)

Fee Processing
(For Petitions Use Only)

App. No./Pat No.
10/007273

Atty Docket No./Cust. No.
11564.0028.NPUS01/ALL

Paper Rec'd Date
7/8/02

Form Completed
1/28/03

Ch ck Amt. #1

Check Amt. #2

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01-2508	

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IVAN S. KAVRUKOV
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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OCT 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Naohiro Yasuda	:	DECISION ON PETITION TO
Application Number: 10/007279	:	WITHDRAW HOLDING OF
Filing Date: 11/12/2001	:	ABANDONMENT
Attorney Docket Number:	:	
2271/66021	:	

This is a decision on the petition filed on October 8, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the Office letter mailed on July 5, 2006. Specifically, the Notice of Abandonment stated that there was no signature on the amendment dated June 29, 2006, and no response to a Notice of Non-Compliant Amendment.

A review of the record reveals the following:

1. On March 24, 2006, a non-final Office action was mailed.

2. On June 16, 2006, an amendment was filed.

3. On June 29, 2006, a supplemental amendment was filed.

4. On August 8, 2006, a Notice of Abandonment was mailed.

Petitioner asserts that no Office communication was mailed on July 5, 2006, and that the amendment filed on June 29, 2006 was in fact signed.

Upon review, petitioner's contention is well taken. A review of the record fails to reveal any Office communication mailed on July 5, 2006. Moreover, a review of the Image File Wrapper

reveals that Page 14 of the amendment filed on June 29, 2006, was signed by petitioner's registered patent practitioner, Paul Teng. Accordingly, the showing of record is that a proper and timely response to the Office action mailed on March 24, 2006, was filed.

Accordingly, there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The Office apologizes for any inconvenience to petitioner.

The application will be referred to Technology Center Art Unit 2625 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Paper No. 10

JOSEPH A PUGH
2300 NE BROOKWOOD PARKWAY
HILLSBORO OR 97124

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MAY 10 2004
OFFICE OF PETITIONS

In re Application of :
Glogovsky, et al. :
Application No. 10/007,289 : ON PETITION
Filed: November 10, 2001 :
Title: Integrated Optoelectronics :
Devices

This is a decision on the petition to revive under 37 CFR 1.137(b), filed April 28, 2004.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed March 26, 2002, which set an extendable period for reply of two months for applicant to file substitute drawings. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on May 27, 2002. A Notice of Abandonment was mailed on December 12, 2003.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of substitute drawings, and made the 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.

The Revocation and Power of Attorney submitted with the instant petition has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
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OFFICE OF PETITIONS

In re Application of :
Kollias, et al. :
Application No. 10/007,296 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. J&J-2067 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before February 3, 2005. Accordingly, this application became abandoned on February 4, 2005.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of :
Thackeray, et al. :
Application No. 10/007,315 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 17267-000018 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The 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 26, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 27, 2002. A Notice of Abandonment was mailed on November 20, 2003.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

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DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Robert R. DEWITT et al. :
Application No. 10/007,317 : DECISION ON PETITION
Filed: November 05, 2001 :
Attorney Docket No. **0412-P00912US3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 11, 2009, 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 26, 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 application became abandoned on September 27, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) in that the RCE was filed without the RCE fees. Also the s-signature on the RCE transmittal and on the amendment submitted therewith are improper as the signer's name is not printed thereon in accordance with 37 CFR1.4(d)(2)(iii).

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DANN, DORFMAN, HERRELL & SKILLMAN
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SUITE 2400
PHILADELPHIA PA 19103-2307

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OFFICE OF PETITIONS

In re Application of	:	
Robert R. DEWITT et al.	:	
Application No. 10/007,317	:	DECISION ON PETITION
Filed: November 05, 2001	:	
Attorney Docket No. **0412-P00912US3**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 26, 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 September 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3653 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

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OFFICE OF PETITIONS

In re Application of :
Daniel J. Hoffman et al :
Application No. 10/007,367 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 4097 P01 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2005, to revive the above-identified application.

The petition is **DISMISSED as moot**.

The Notice of Allowance and Issue Fee Due and Notice of Allowability were mailed on November 17, 2004, setting forth a 3-month shortened statutory reply period. The issue fee and publication fee were due on or before February 17, 2005. The Fee(s) Transmittal was timely filed via facsimile transmission on February 8, 2005. Therefor, since this case was not in fact abandoned at the time of filing the instant petition, the petition to revive was prematurely filed and is dismissed as involving a moot issue.

After this decision is mailed, deposit account No. 50-1074 charged a total of $1,706.00 -- $1,400.00 for the issue fee, $300.00 for the publication fee, and $6.00 for two (2) soft copies.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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Paper No. 6

Morgan Lewis & Bockius
1111 Pennsylvania Avenue, NW
Washington, DC 20004

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OFFICE OF PETITIONS

In re Application of :
Barbara L. Barros :
Application No. 10/007,387 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 056156-5001 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed December 21, 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 22, 2002.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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051905

Lerner and Greenberg, P.A.
P.O. Box 2480
Hollywood, FL 33022-2480

MAY 2 4 2005

In re Application of:
Jenoe Tihanyi
Serial No.: 10/007,397
Filed: October 22, 2001
U.S. Patent No. 6,768,169
Issued: July 27, 2004
Attorney Docket No. WMP-SME-515

DECISION RETURNING
PRIOR ART CITED UNDER
35 U.S.C. § 301

The prior art citation under 35 U.S.C. § 301 and 37 C.F.R. § 1.501, filed by the patent owner on April 25, 2005, is before the Group Director of Examining Group 2800 for consideration. The citation is being returned.

STATUTES, REGULATIONS AND PRACTICE

35 U.S.C. § 301 reads as follows:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential. (Emphasis added.)

37 C.F.R. § 1.501 reads, in pertinent part:

> (a) At any time during the period of enforceability of a patent, any person may cite to the Patent and Trademark Office in writing prior art consisting of patents or printed publications which that person states to be pertinent and applicable to

> the patent and believes to have a bearing on the patentability of any claim of a particular patent. If the citation is made by the patent owner, the explanation of pertinency and applicability may include an explanation of how the claims differ from the prior art. (Emphasis added.)

Section 2205 of the Manual for Patent Examining Procedure (M.P.E.P.) reads, in pertinent part:

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> An explanation is required of how the person submitting the prior art considers it to be pertinent and applicable to the patent, as well as an explanation of why it is believed that the prior art has a bearing on the patentability of any claim of the patent. Citations of prior art by patent owners may also include an explanation of how the claims of the patent differ from the prior art cited. . . .
>
> A prior art citation is limited to the citation of patents and printed publications and an explanation of the pertinency and applicability of the patents and printed publications. This may include an explanation by the patent owner as to how the claims differ from the prior art. (Emphasis added.)

Section 2206, II, B of the M.P.E.P. reads in pertinent part:

> If an improper prior art citation under 37 C.F.R. 1.501 is filed by the patent owner prior to an order for reexamination, it should not be entered in the file. The patent owner should be notified of the nonentry, and the citation papers should be returned to the patent owner along with the notification.

DECISION

The citation of prior art lacks an explanation of the pertinency and the manner of applying the cited prior art to at least one claim of the patent as required. Accordingly, the citation of prior art filed April 25, 2005 does not meet the conditions for entry into the patent file. The citation is being returned to the patent owner pursuant to M.P.E.P. § 2206, II, B.

This decision is made of record in the patent file.

Any inquiry regarding this decision should be directed to Edward Westin, Special Programs Examiner, at (571) 272-1638.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enclosure: Citation of prior art filed April 25, 2005

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6725955	2004-04-27	10007400	2001-10-18	BIDW.01USF1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◯ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/John L Bidwell/	Date (YYYY-MM-DD)	2009-05-21
Name	John L Bidwell		

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.

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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.

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In re Patent No. 6725955
Issue Date: April 27,2004
Application No. 10007400
Filed: October 18,2001
Attorney Docket No. BIDW.01USF1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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.

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ALEXANDRIA, VA 22313-1450
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MAY 12 2004

VP
PAPER NO. ___

In re Application of
Jeffrey Morse et al.
Serial Number: 10/007,412
Filed: December 5, 2001
For: A CHEMICAL MICROREACTOR AND METHOD THEREOF

PETITION UNDER
M.P.E.P.708.02 V
AND VI

This is in response to the petition filed February 6, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Laboratory Counsel
P.O. Box 808, L-703
Livermore CA 94551

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Paper No. 10

FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

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APR 29 2004
OFFICE OF PETITIONS

In re Application of :
Chow, et al. :
Filed: November 30, 2001 : ON PETITION
Application No. 10/007,418 :
Attorney Docket No.: A-69632/ESW/WEN :

This is a decision on the petition under 37 CFR 1.182, filed April 6, 2004, to change the order of inventors in the above-identified application.

The current Office procedure for changing the order of inventors named in an application involves submitting a petition under 37 CFR 1.182 signed by either the attorney or agent of record or all of the applicants designating the desired changed.

The instant petition has met the criteria for changing the order of named inventors. Accordingly, the petition is **GRANTED**.

The order of inventors will be changed as follows:

1. Chow, Yan Chiew
2. Hsia, James R.

This application is being forwarded to the Office of Initial Patent Examination for correction of the file wrapper label and the PALM database regarding the order of inventorship thereafter the application will be forwarded to the Publications Division for further processing.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

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FEB 0 5 2007

OFFICE OF PETITIONS

In re Application of :
MARKEL, et al. :
Application No. 10/007,437 : DECISION ON PETITION
Filed: November 30, 2001 : TO WITHDRAW
Attorney Docket No. INTE.37US01 : 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 28, 2006 and re-submitted 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 associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STEVEN O. MARKEL**
3031 WYECLIFF WAY
HIGHLANDS RANCH, CO 80126

cc: **MARC KAUFMAN ESQ**
NIXON PEABODY LLP
401 9TH STREET NW, SITE 900
WASHINGTON, DC 20004

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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
10/007,437	11/30/2001	Steven O. Markel	INTE.37US01

CONFIRMATION NO. 3060

OC000000022292693

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 02/01/2007

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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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AUG 1 6 2004

OFFICE OF PETITIONS

MARK K. JOHNSON
P.O. BOX 510644
NEW BERLIN, WI 53151-0644

In re Application of :
David Lewis et al : DECISION ON PETITION
Application No. 10/007,448 : UNDER 37 CFR 1.78(a)(3)
Filed: November 7, 2001 :
Attorney Docket No. Mirus.030.03 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 30, 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 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, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on November 7, 2001, and was pending at the time of filing of the instant petition.

The reference to the prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed July 30, 2004 is unclear. Petitioner does not indicate in the amendment filed with the instant petition whether benefit claim is being made to provisional Application No. 60/315,394 and 60/324,155. Also, the related applications need not be included in the amendment seeking benefit claims.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment addressing the above matters, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax:
(703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

MARK K. JOHNSON
MIRUS
505 SOUTH ROSA ROAD
MADISON, WI 53719

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OFFICE OF PETITIONS

MARK K. JOHNSON
P.O. BOX 510644
NEW BERLIN, WI 53151-0644

In re Application of
David L. Madison et al
Application No. 10/007,448
Filed: November 7, 2001
Attorney Docket No. Mirus.030.03

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed August 19, 2004, which is being treated under 37 CFR 1.78(a)(3), 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 July 30, 2004 and supplemented on August 19, 2004.

The petition is **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant application was filed on November 7, 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 November 7, 2001, within twelve months of provisional Application No. 60/315,394, filed August 27, 2001, and Application No. 60/324,155, which was filed on September 20, 2001, for which priority is claimed. 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 <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed aplications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications accompanies this decision on petition.

Any questions concerning this matter may be directed to Karen Creasy at (571) 272-3208.

This application is being referred to Technology Center Art Unit 1635 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

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT : Corrected Filing Receipt

10 MAY 2006

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MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

In re Application of LEWIS et al.
Application No. 10/007,448
Filed: November 7, 2001
Attorney Docket No. Mirus.030.03

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed 09 September 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

The present 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) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

With regard to Item (2), the surcharge fee required by 37 CFR 1.17(t) has been submitted[1]. With respect to Item (3), the petition contains a proper statement of unintentional delay.

However, the petition does not comply with Item (1) above. U.S. application 09/391,260 cannot claim benefit under 35 U.S.C. 120 to U.S. application 09/975,573 as the latter was not filed prior to the 09/391,260 application. Thus, the reference to nonprovisional application 09/975,573 is

[1] The petition was not accompanied by the requisite fee. The requisite fee was submitted on 16 March 2006.

not a prior filed application and cannot be included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii).

Accordingly, 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 does not satisfy the conditions of 37 CFR 1.78(a), and thus, the petition is cannot be granted, at this time. 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 a substitute amendment[2] which sets forth the relationship of the prior-filed application(s) is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to Petitions Attorney Cynthia Kratz at (571) 272-3286.

Boris Milef
Legal Examiner
Office of Petitions and
Office of PCT Legal Administration

[2] *Note* 37 CFR 1.121

Attn: Cynthia

PTO/SB/21 (05-03)
Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/007,448
Filing Date	11/07/2001
First Named Inventor	David Lewis
Art Unit	1635
Examiner Name	Terra C. Gibbs
Total Number of Pages in This Submission: 2	Attorney Docket Number: Mirus.030.03

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please identify below):

Credit Card form for additional fees

Remarks

A credit card form is attached for the payment of additional fees for a 37CFR1.78 petition per a telephone conference with Cynthia in the Petitions Office. Fee was calculated by subtracting $390 from $1,370.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Mark K. Johnson, Mirus Corporation
Signature	
Date	03/16/2006

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as express mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. (703-872-9306)

Typed or printed name	Mark K Johnson		
Signature		Date	03/16/2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

07 SEP 2006

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MIRUS CORPORATION
505 SOUTH ROSA RD
MADISON WI 53719

In re Application of LEWIS et al.
Application No. 10/007,448
Filed: November 7, 2001
Attorney Docket No. Mirus.030.03

: DECISION ON
: RENEWED PETITION
:UNDER 37 CFR 1.78(a)(3) & (a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed 25 May 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional 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 (a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) 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 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 prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Furthermore, a petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

> (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
> (2) the surcharge set forth in § 1.17(t); and
> (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

With regard to Item (1), the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application has been made. With regard to Item (2), the surcharge fee required by 37 CFR 1.17(t) has been submitted. With respect to Item (3), the petition contains a proper statement of unintentional delay.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(1),(a)(2), (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 this 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 and provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Cynthia Kratz at (571) 272-3286. 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 1635 for appropriate action on the amendment filed 25 May 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Boris Milef
Legal Examiner
Office of Petitions
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 9

MARK K. JOHNSON
MIRUS
505 SOUTH ROSA ROAD
MADISON, WI 53719

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Lewis et al.
Application No. 10/007,459
Filed: November 7, 2001
Attorney Docket No. Mirus.030.03

ON PETITION

This is a decision on the petition under 37 C.F.R. § 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 to the Notice to File Missing Parts of Application (Notice) mailed December 26, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 27, 2002. A Notice of Abandonment was mailed on January 14, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MICHAEL CHAN
NCR CORPORATION
1700 SOUTH PATTERSON BLVD
DAYTON OH 45479-0001

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of
Hartop
Application No. 10/007,464
Filed: December 5, 2001
Title: STREAMING OF DATA

DECISION GRANTING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the March 12, 2002 petition under 37 C.F.R. §1.47(b)[1].

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of dated, establishes that the inventor was given a copy of the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, Petitioner has shown that has a proprietary interest in the above-identified application with the Assignment from inventor to dated. Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination is authorized to

(1) accept this application under Rule 1.47(b);

(2) process the application with the inventor being Scott Hartop and with the indication that the application was filed by as the party in interest under 35 U.S.C. § 118, inventor authority code 08, using the Declaration filed on March 12, 2002; and

(3) mail a filing receipt with a filing date of December 5, 2001.

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.

---

[1] 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;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

The application is being returned to the Office of Initial Patent Examination for further processing, a copy of the corrected Filing Receipt is attached.

Telephone inquiries regarding this communication should be directed to the undersigned at 703-306-5593.

Scott M. Ledford
Attorney
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

March 2, 2004

John G. Posa
Gifford Krass, Groh et al
Suite 400
280 N. Old Woodward Ave.
Birmingham, MI 48009

In re application of:
Ferree DECISION ON PETITION
Serial No.: 10/007,477
Filed: November 8, 2001

For: SPINAL FUSION DEVICES AND ALIGNMENT APPARATUS THEREFORE

This is a decision on the petition received on December 17, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed January 3, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned March 5, 2002. A notice of abandonment was mailed on December 10, 2003.

On December 17, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on February 22, 2002.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on February 22, 2002.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 3732.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KD

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Becker :
Application No. 10/007,492 :
Filed: November 8, 2001 :
Attorney Docket No. SMQ-140/P6592 :

ON PETITION

This is a decision on the petition filed May 29, 2002, requesting, in effect, that the "Notice Of Omitted Item(s)" mailed January 7, 2002, be withdrawn to the extent that it states that Figure 2 is missing. The petition also requests the application be accorded a filing date of November 8, 2001.

The petition is **granted** to the extend indicated below.

The application was filed on November 8, 2001.

On January 7, 2002, the Office of Initial Patent Examination mailed a "Notice of Missing Item(s)" stating that the application had been accorded a filing date of November 8, 2001, and advising applicant that Figure 2 described in the specification appeared to have been omitted.

The Notice gave applicant three options:
(1) file a petition contending that Figure 2 was in fact filed on November 8, 2001,
(2) file a copy of Figure 2 and request the date of the submission of the Figure be the filing date, or
(3) file no response to the Notice and accept the application as filed on November 8, 2001.

On February 6, 2002, in response to the Notice, applicant submitted a copy of Figure 2 but did not submit a petition or petition fee. The Office changed the filing date to February 6, 2002.

Petitioner contends that, despite the filing of a copy of Figure 2 in response to the Notice, petitioner intended to choose option (3) listed above.

Since a petition explicitly requiring a later filing date, and petition fee, were not filed with the Figure, the filing date should not have been changed. The filing date will be changed back to November 8, 2001.

Figure 2 will not be entered. Petitioner contends Figure 2 was in fact present on November 8, 2001, in so far as the Figure was superimposed over Figures 3 and 4.

Applicant does not contend that Figure 2 was filed and later lost or misplaced by the Office. Instead, the contention involves mistakes on the drawings. Such mistakes should be corrected by amendment and not by petition. A formal amendment to correct Figures 2, 3 and 4 should be filed.

Since the present petition was not necessitated by any error on the part of the Office, the $130 petition fee will not be refunded.

The attorney docket number has been corrected. The Revocation and Power of Attorney has been entered.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 8, 2001, using only the application papers filed on that date.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Paper No. 4

Rajiv P. Patel
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

MAIL

NOV 2 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Harry E. Shisler
Application No. 10/007,547
Filed: November 6, 2001
For: PLATFORM-INDEPENDENT PROGRAMMABLE BATCH PROCESSING ENGINE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed November 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed November 17, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews
For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: V. Randall Gard, Partner
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHELIN NORTH AMERICA, INC.
515 MICHELIN ROAD
P.O. BOX 2026
GREENVILLE, SC 29602

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OFFICE OF PETITIONS

In re Application of	:	
Pagano et al.	:	GRANT OF PETITION
Application No. 10/007,601	:	UNDER 37 CFR 1.78(a)(3)
Filed: December 5, 2001	:	AND 37 CFR 1.78(a)(6)
Attorney Docket No. P10-1289	:	

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.55(c), filed August 9, 2004, to accept an unintentionally delayed claim for the benefit of prior-filed applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.78(a)(3) is **dismissed.**

The petition under 37 CFR 1.55(c) is **dismissed.**

Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c) and 37 CFR 1.78(a)(3)" and should be submitted within two months from the mail date of this decision. *Note* 37 CFR 1.181(f).

The petition under 37 CFR 1.78(a)(3)

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time has expired. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition cannot be granted at this time because the amendment filed with the petition is improper. Specifically, the amendment seeks to impermissibly add a foreign priority claim. The reason the foreign priority claim cannot be accepted at this time is discussed below under the heading, "The petition under 37 CFR 1.55(c).

The petition under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must have been filed on or after November 29, 2000;

(2) a proper claim to the prior foreign application(s);[1]

(3) the surcharge as set forth in 37 CFR 1.17(t); and

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.).

A review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet in accordance with 37 CFR 1.76(b)(6). Unless provided in an application data sheet, 37 CFR 1.63 requires that the oath or declaration must identify the foreign application for patent or inventor's certificate for which priority is claimed under 37 CFR 1.55, and any foreign applications having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63 must be satisfied if applicant desires to claim priority to the foreign application noted in the petition

Further, there is no indication that a certified copy of the foreign applications has been received in the instant application. Petitioner is advised that, where the benefit of a foreign filing date based on a foreign application is claimed in a later-filed application and a certified copy of the foreign application as filed, has been filed in a parent or related application, it is not necessary to file an additional certified copy in the later application. The applicant, when making such claim for priority, may simply identify the application containing the certified copy. *Note* MPEP 201.14(b). If, on the other hand, a certified copy has not been filed in a parent application, a certified copy of the foreign applications to which priority is being claimed must be submitted prior to issuance of the instant application into a patent. *Note* MPEP 201.13.

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

[1] The claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date.

By facsimile: (703) 872-9306
Attn: Office of Petitions

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.
The petition fee of $1,330 has been charged to petitioner's deposit account.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (703) 306-5683 prior to September 27, 2004, and (571) 272-3203 thereafter.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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515 MICHELIN ROAD
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GREENVILLE, SC 29602

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OFFICE OF PETITIONS

In re Application of :
Pagano et al. :
Application No. 10/007,601 :
Filed: December 5, 2001 :
Attorney Docket No. P10-1289 :

GRANT OF PETITION
UNDER 37 CFR 1.78(a)(3)
AND 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 1.55(c), filed October 29, 2004, to accept an unintentionally delayed claim for the benefit of prior-filed applications set forth in the concurrently filed amendment.

The petition under 37 CFR 1.78(a)(3) is **granted.**

The petition under 37 CFR 1.55(c) is **granted.**

The petition under 37 CFR 1.78(a)(3)

When an application is filed on or after November 29, 2000, benefit claims under 35 U.S.C. 119(e), 120, 121 and 365(c) must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. For the instant application, the above period of time has expired. However, petitioner has submitted a petition under 37 CFR 1.78(a)(3).

37 CFR 1.78(a)(3) states,

If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
(ii) The surcharge set forth in § 1.17(t); and
(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner has satisfied the above requirements for relief under 37 CFR 1.78(a)(3) and the petition under 37 CFR 1.78(a)(3) is granted.

The petition under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must have been filed on or after November 29, 2000;

(2) a proper claim to the prior foreign application(s);[1]

(3) the surcharge as set forth in 37 CFR 1.17(t); and

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.).

All the above requirements have been met, and the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) and (f) is granted.

Conclusion:

The granting of this petition is not a determination that petitioner is actually entitled to the benefit of the filing date of the prior-filed applications, but is only a determination that the Office will allow petitioner to file an untimely claim for priority. The examiner will, in due course, consider any priority claims and determine the extent to which the application is entitled to an earlier filing date.

A corrected Filing Receipt, which includes the priority claims, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1733 for appropriate action on the amendment submitted December 20, 2004, including consideration by the examiner of the claims for priority. **The examiner should consider the priority claims and determine the extent to which the application is entitled to an earlier filing date based on the prior-filed applications.**

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Frances Hicks
Petitions Examiner
Office of Petitions

Attached: Corrected Filing Receipt

[1] The claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date.

UNITED STATES
PATENT AND
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APR 16 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

STEVEN J. HULTQUIST
INTELLECTUAL PROPERTY/TECHNOLOGY LAW
P. O. BOX 13429
RESEARCH TRIANGLE PARK NC 27709

#4

In re Application of
Jason C. H. Shih
Serial No.: 10/007,613
Filed: October 26, 2001
Attorney Docket No.: 4171-102

: PETITION TO MAKE SPECIAL

This is in response to applicant's petition filed January 22, 2002, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on enhancement of quality of the environment.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, V. 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

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 - 7 2005

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO CA 94306

In re Application of:
Pickard et al.
Serial No.: 10/007,631
Filed: November 9, 2001
Attorney Docket No.: **S01-079**

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on June 17, 2004, to withdraw the holding of abandonment of the above identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a response to the Office action mailed on April 1, 2003. A Notice of Abandonment was mailed on March 15, 2004.

Petitioner asserts that on June 27, 2003, a response including an amendment and transmittal form was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of the amendment and transmittal form on July 1, 2003.

M.P.E.P. § 503 states, "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely received in the PTO.

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.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

#6

Commissioner for Patents
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of :
Kevin C. Hutton et al :
Application No. 10/007,642 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No. GOLDENH.006A :

This is a decision on the petition under 37 CFR 1.182, filed August 25, 2004, to change the order of the inventors name.

The petition is **Granted**.

A corrected Filing Receipt with the desired order of the inventors name change accompanies this decision on petition.

Telephone inquiries regarding the above matter should be directed to the undersigned at (571)272-3208.

This application is being referred to Technology Center Art Unit 3626.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: CORRECTED FILING RECEIPT

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, PO BOX 224
MONROE, CT 06468

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Patent No. 6,856,092 :
Issue Date: February 15, 2005 :
Application No. 10/007,652 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 508-053.3-1

This is a decision on the petition, filed April 29, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is Ceravision Limited and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to Ceravision Limited.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee*: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* Official Gazette of June 22, 2004

The instant 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 Ceravision 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 Ceravision 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 and **after issuance of the instant application into a patent, 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 , as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant 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 the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. 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 concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 6,856,092 :
Issue Date: February 15, 2005 :
Application No. 10/007,652 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 508-053.3-1

This is a decision on the petition, filed April 29, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on Issue Fee Transmittal Form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **dismissed**.

Petitioner states that the correct assignee's name is Ceravision Limited and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner herein requests that the patent issue to Ceravision Limited.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee*: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* Official Gazette of June 22, 2004

The instant 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 Ceravision 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 Ceravision 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 and **after issuance of the instant application into a patent, 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 , as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant 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 the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. 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 concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
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MONROE, CT 06468

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OFFICE OF PETITIONS

In re Patent No. 6,856,092 :
Issue Date: February 15, 2005 :
Application No. 10/007,652 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 508-053.3-1 :

This is a decision on the renewed petition filed July 15, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name 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) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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ROBIN CHIANG
BOZICEVIC FIELD & FRANCIS, LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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SEP 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Tammy L. Moser et al	:	
Application No. 10/007,698	:	DECISION ON PETITION
Filed: December 10, 2001	:	TO WITHDRAW
Attorney Docket No. 05882.0102.CNUS01	:	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 6, 2004.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robin Chiang has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record remains unchanged, which is the first address indicated below.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272- 3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Myers, Bigel, Sibley & Sajovec
P.O. Box 37428
Raleigh, NC 27627

cc: Attn: Mr. Kenneth D. Sibley
Myers, Bigel, Sibley & Sajovec, P.A.
4140 Parklake Avenue, Suite 600
Raleigh, NC 27612

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Robert A. Jacobsen et al. :
Application No. 10/007,708 :
Filed: November 13, 2001 :
Attorney Docket No. APTI:062 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2003, to revive the above-identified application.

The petition is GRANTED.

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 March 25, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. A three-month extension of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the above-identified application became abandoned on September 26, 2003.

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.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The patent file is being forwarded to Technology Center AU 2856.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

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OFFICE OF PETITIONS

In re Application of :
John C. Tsai et al :DECISION GRANTING PETITION
Application No. 10/007,719 :UNDER 37 CFR 1.137(b)
Filed: November 9, 2001 :
Attorney Docket No. 60617.300901 :

This is a decision on the petition, filed June 18, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition under 37 CFR 1.137(f) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 17, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the USPTO of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing

within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 4, 2004 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on March 29, 2004. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due accompanies this decision on petition. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Publication Fee Due mailed July 27, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 08-3240 was charged $665.00 for the petition to revive an unintentionally abandoned application (37 CFR 1.137(f)).

Any inquiries concerning this decision may 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

ATTACHMENTS: Notice Regarding Rescission of Nonpublication Request
Notice of Publication Fee Due

Pet. Dec.

UNITED STATES 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. BEREMAN, ROBERT D.
Issue Date: September 14, 2004
Appl No.: 10/007,724
Filed: November 09, 2001
For: METHOD OF MAKING A SMOKING COMPOSITION

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed January 24, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Steven P. Griffin
Supervisory Patent Examiner
Art Unit 1731
Technology Center 1700

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: March 23, 2005
TO: Certificates of Correction Branch
FROM: Steven P. Griffin
SPE, Art Unit 1731
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,789,548 as specified on the attached Certificate.

Steven P. Griffin, SPE
Art Unit 1731

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,789,548
Patented: September 14, 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:

Patrick Rainey, Raleigh, NC (US)

Steven P. Griffin
Supervisory Patent Examiner
Art Unit 1731

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
7th Floor
Los Angeles, CA 90025-1026

In re Application of :

Prasanna Amerasinghe et al. :
Application No. 10/007,730 : DECISION ON PETITION
Filed: November 9, 2001 : TO WITHDRAW
Attorney Docket No. 005306.P3039 : 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 25, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

Mail Date: 04/26/2010

Applicant	: Prasanna Amerasinghe	: DECISION ON REQUEST FOR
Patent Number	: 7644009	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/007,730	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1251** 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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE, WA 98104

Mail Date: 04/21/2010

Applicant	: Yuqiu Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7598226	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/007,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1095** 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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SUIE 2500
THREE EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of :
Casper Kruger Troelsen et al :
Application No. 10/007,823 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 22645-7200 :

This is a decision on the petition, filed May 25, 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 May 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2615 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).

DO NOT SEND TO WAREHOUSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : DEC - 9 2004 Paper No.: _____

TO SPE OF : ART UNIT 2826 10/001,833

SUBJECT : Request for Certificate of Correction on Patent No.: 6791127

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.

Should the requested info change?

RoChaun Johnson
308-6803

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:

OK TO ENTER

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

12-2-04

Art Unit

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SUITE 3200
DES MOINES, IA 50309-2721

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Vijay Kumar et al :
Application No. 10/007,866 :
Filed: December 6, 2001 :
Attorney Docket No. P04829US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 9, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on July 14, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed November 12, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 10, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Vijay Kumar	: DECISION ON REQUEST FOR
Patent Number	: 7595392	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/007,866	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** 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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EDWARD W BULCHIS ESQ
DORSEY & WHITNEY LLP
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application	:	
Huber et al.	:	
Application No. 10/007,871	:	DECISION ON APPLICATION
Filed: November 13, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 500125.02	:	

This is a decision on the "PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b)," filed February 10, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from two hundred seventy-seven (277) days to two hundred eighty-one (281) 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 **two hundred eighty-one (281) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 5, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred seventy-seven (277) days. On February 10, 2004, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred eighty-one (281) days.

Applicants assert entitlement to a patent term adjustment of two hundred eighty-one (281) days on the basis that the PTO improperly assessed applicants a delay of four (4) days for responding to a Notice of Omitted Items mailed on December 31, 2001. Applicants assert that they timely filed a response within the three month period pursuant to 37 C.F.R. 1.704(b) on February 27, 2002, not April 4, 2002.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred seventy-seven (277) days based on an adjustment for PTO delay of two hundred eighty-one (281) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delay of four (4) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The PTO delay of 281 days has been reviewed and found to be correct. The adjustment of 4 days is at issue.

The adjustment of 4 days has been found to be incorrect. The application file reveals that applicants timely responded to the Notice of Omitted Items on February 27, 2002. Furthermore, the response was a complete reply to the Notice. Thus, the Office should not have entered the date that the instant application was complete as April 4, 2002, or assessed applicants a delay of four (4) days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicants' delay with respect to the Notice of Omitted Items should have been assessed as zero (0) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred eighty-one (281) days** (281 days of PTO delay and 0 days of applicant delay).

---

[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

The application file is being forwarded to Group Art Unit 2818 for the examiner to consider applicants' request for a supplemental Notice of Allowance.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Kerry A. 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 RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/2/05

TO SPE OF : ART UNIT 3644

SUBJECT : Request for Certificate of Correction on Patent No.: 6510651 10/007,880

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** F. Palo 12/21/05 All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE 3644 Art Unit

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1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of
David W. Wang, et al.
Application No. 10/007,890
Filed: November 9, 2001
Attorney Docket No. 60617.300801

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 18, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on November 6, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 11, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to the Office of Publications for further processing.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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IBM CORPORATION, INTELLECTUAL PROPERTY LAW
DEPT 917, BLDG. 006-1
3605 HIGHWAY 52 NORTH
ROCHESTER MN 55901-7829

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OFFICE OF PETITIONS

In re Application of
Richard Dean Dettinger et al.
Application No. 10/007,891
Filed: November 13, 2001
Attorney Docket No: ROC920010265US1

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed March 26, 2007, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on November 13, 2006, for failure to file a timely response to the non-Final Office Action mailed August 10, 2006, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 26, 2007. Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record used prior to the change of address filed August 15, 2006. Petitioner has provided a copy of the docket report for the address used prior to the change of address filed August 15, 2006, wherein receipt of the Office Action mailed August 10, 2006 would have been filed, had it been received. To show that the Notice mailed August 10, 2006 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed August 10, 2006, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2157 for treatment of the response

to the non-Final Office Action as appropriate.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 9

Fish & Richardson, P.C.
3300 Dain Rauscher Plaza
60 South Sixth Street
Minneapolis, MN 55402

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of
Michael J. Weaver, et. al.
Application No. 10/007,902
Filed: November 8, 2001
Attorney Docket No. 10790-006001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 10, 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 after midnight March 10, 2002.

In response to the Notice to File Corrected Application Papers, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and two (2) sheets of drawings containing Figures 1-2.

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.

Since the requirements for a grantable petition have been met, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Fish & Richardson, P.C.
225 Franklin Street
Boston, MA 02110-2804

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WASHINGTON, D.C. 20231
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Paper No. 4

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

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MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/007,914 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No.: 1998P07932 US :
For: INTELLIGENT TELECOMMUNICATIONS MANAGEMENT NETWORK (TMN) :

This is a decision on the petition filed January 29, 2002 requesting that Figure 4 be included in the above-identified application as having been present upon filing on November 8, 2001.

The petitioner is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The application was filed November 8, 2001. A Notice of Omitted Items(s) in a Nonprovisional Application ("Notice") was mailed on December 28, 2001. The Notice indicated that a filing date had been granted but that figure 4 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application filed November 8, 2001 included three (3) pages of formal drawings, including Figure 4, as indicated on the Office date-stamped return postcard, a copy of which petitioner has provided.

The argument and evidence presented by petitioner have been considered, but are not persuasive. The Office has a well

established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. A postcard receipt will not serve as *prima facie* evidence of receipt of any item not adequately itemized on the postcard. *See*, MPEP 503.

The identifying data on the postcard should include: (A) applicant's name(s); (B) title of invention; (C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing; (D) whether oath or declaration is included; (E) a list of any additional forms included with the application (e.g., application transmittal form, application data sheet, fee transmittal form, and /or provisional application cover sheet); and (F) amount and manner of paying the fee. *See*, MPEP 503.

Petitioner's return postcard fails to specifically itemize the application papers submitted therewith. The return postcard indicates submission of a two page continuation transmittal form, a two page copy of a declaration and power of attorney, and twenty-six pages of a copy of patent application.

A review of the official application file indicates receipt of a two page application transmittal letter, a two page declaration and power of attorney, and twenty-six pages of application papers. The application papers include a one page application title page, two pages of drawings, and twenty-three pages of specification. Therefore, the Office does acknowledge receiving twenty-six pages of application papers, however, Figure 4 is not contained on any of the pages received. As petitioner's return postcard fails to specifically indicate the number of drawing sheets submitted, the evidence submitted by petitioner cannot be found to have established that the Office received Figure 4.

It is, however, noted that the application transmittal letter filed with the application identified this application as a continuation of prior application No. 09/197,983 and specifically incorporated by reference the entire disclosure of the prior application. An applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. *See*, MPEP 201.06(c)

In view of the incorporation by reference of the prior application, figure 4 is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November

8, 2001.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed January 29, 2002 as a supplemental preliminary amendment requesting the entry of a new sheet of drawing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Hajime Anzai et al :
Application No. 10/007,969 :
Filed: December 6, 2001 :
Attorney Docket No. 8694.74US01 :

This is a decision on the petition, filed July 28, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2855 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 8

LAW OFFICE OF BARBARA JOAN HAUSHALTER
228 BENT PINE COURT
BELLEFONTAINE, OH 43311

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JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Piatt et al.
Application No. 10/007,972
Filed: November 13, 2001
Attorney Docket No. SDP278PA

ON PETITION

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 28, 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 29, 2002. A Notice of Abandonment was mailed on November 21, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

LAW OFFICE OF BARBARA JOAN HAUSHALTER
228 BENT PINE COURT
BELLEFONTAINE, OH 43311

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DEC 1 0 2003

OFFICE OF PETITIONS

In re Application of
Piatt et al.
Application No. 10/007,972
Filed: November 13, 2001
Attorney Docket No. SDP278PA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2003, 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.

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 28, 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 29, 2002. A Notice of Abandonment was mailed on November 21, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[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). As stated in the Notice mailed out on January 28, 2002, a late filing oath or declaration surcharge as set forth in 37 CFR 1.16 of $130.00 must be submitted with the missing items identified. After a review of USPTO financial records, the surcharge has not yet been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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 Paralegal Liana Chase at (703) 306-0482.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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MAR 1 8 2004

OFFICE OF PETITIONS

Applicant: Ito et al.
Appl. No.: 10/007,991
Filing Date: December 5, 2001
Title: METHOD AND COMPUTER SOFTWARE PROGRAM PRODUCT FOR PROCESSING CHARACTERS BASED ON OUTLINE FONT DATA
Attorney Docket No.: 27691.10
Pub. No.: US 2004/0012591 A1
Pub. Date: January 22, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was filed on March 3, 2004.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains an error in the title, wherein "Method and Computer Software Program Product for Processing Characters Based on Outline Font Data"is misprinted as "Method and Comupter Software Program Product for Processing Characters Based on Outline Font".

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The instant request identifies a minor typographical error in the title of the invention, wherein "Computer"is misprinted as "Compupter", which is not a material mistake because the technical disclosure and the claims are understandable, as the phrase is correctly spelled throughout the specification. The typographical error identified by applicant is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The 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.

With respect to the omission of the word "Data" from the title of the invention, the missing word is not on the transmittal letter filed with the application papers or the Declaration filed by applicant, thus it is not clearly and Office error. The title of the invention has been corrected in the Office electronic records.

On March 13, 2002, a Filing Receipt was mailed listing the title of the invention as a "Method and Comupter Software Program Product for Processing Characters Based on Outline Font". To

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

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's request for a corrected patent application publication on March 3, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

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

Enclosures: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Thrasher Associates, LLP
391 Sandhill Dr.
Richardson, TX 75080

COPY MAILED

MAR 1 8 2004

OFFICE OF PETITIONS

Applicant: Ito et al.
Appl. No.: 10/007,991
Filing Date: December 5, 2001
Title: METHOD AND COMPUTER SOFTWARE PROGRAM PRODUCT FOR PROCESSING CHARACTERS BASED ON OUTLINE FONT DATA
Attorney Docket No.: 27691.10

This is in response to the request for Change of Correspondence Address and Power of Attorney forms, which were filed on July 16, 2002.

The requests are DISMISSED.

The Correspondence Address was previously changed to the above identified address, as requested by Steven Thrasher, however the change of Correspondence Address was improper as Steven Thrasher did not have a proper power of attorney in the application. The power of attorney filed on July 16, 2002 was insufficient to give Mr. Thrasher power of attorney in the application because it was only signed by one inventor (Masatoshi Ito). Papers giving or revoking a power of attorney in an application require signature by all the applicants or owners of the application, unless they are accompanied by a petition and fee under 37 CFR 1.182 giving good and sufficient reasons as to why such papers should be accepted. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.182 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. See e.g. In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988) and MPEP 402.10.

The Correspondence Address has been changed back to the proper address (Haynes and Boone).

Any questions or petitions should be addressed as follows:

By mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

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

cc:
HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

UNITED STATES 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

TROUTMAN SANDERS LLP
BANK OF AMERICA PLAZA, SUITE 5200
600 PEACHTREE STREET , NE
ATLANTA, GA 30308-2216

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FEB 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Ronald Arbo, et al. :
Application No. 10/008,001 : DECISION GRANTING PETITION
Filed: November 13, 2001 : UNDER 37 CFR 1.137(b)
Docket No. OPEN1(014481.000003) :

This is a decision on the petition, filed January 16, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on June 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2143 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENNAMETAL INC.
P.O. BOX 231
1600 TECHNOLOGY WAY
LATROBE PA 15650

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AUG 0 2 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Linn R. Andras :
Application No. 10/008,014 :
Filed: November 8, 2001 :
Attorney Docket No. K-1831 :

This is a decision on the petition, filed July 25, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 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) 272-3208.

The examiner of Technology Center AU 3722 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
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Paper No. 10

Stephen D. Scanlon
Jones Day
901 Lakeside Avenue
Cleveland, OH 44114

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OCT 07 2003
OFFICE OF PETITIONS

In re Application of
Ju Gao, et. al.
Application No. 10/008,022
Filed: November 5, 2001
Attorney Docket No. 609920-600023

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on July 21, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction mailed November 15, 2002, 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 after midnight December 15, 2002.

In response to the Restriction Requirement, petitioner submitted with the instant petition $650 for the petition fee, and and Election electing claims 1-15.

Since all the requirements for a grantable petition have been met, the petition is **GRANTED**.

The above-identified application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EVELYN A. DEFILLO
PENDORF & CUTLIFF
5111 MEMORIAL HIGHWAY
TAMPA FL 33634-7356

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Oskar Koch et al :
Application No. 10/008,044 : DECISION GRANTING PETITION
Filed: November 8, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 3968.082 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 14, 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 1712.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-26-08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/008044 Patent No.: 7208142

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. 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: The errors in the Form PTO/SB/44, CoC, and the failure to provide basis for the changes in the examples and the claims are too numerous to enter said CoC in part. (1) Several changes are set forth with improper direction for said changes. (2) Several changes set forth citations that should be in subscript format but are not. (3) Several changes are merely editorial and do not affect the understanding of the subject matter. It is unclear why they are necessary. Furthermore, (4) changes to the claimed structural names are unclear as to the positions being made.

SPE

1796
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 Mailed : March 23, 2009

Patent No. : 7208142
Inventor : Koch, et al.
Patent Issued : April 24, 2007
Title : INDANYLIDENE COMPOUNDS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the errors in the form PTO/SB/44, certificate of correction, and the failure to provide basis for the changes in the examples and the claims are too numerous to enter said certificate of correction in part. (1) Several changes are set forth with improper direction for said changes. (2) Several changes set forth citations that should be in subscript format but are not. (3) Several changes are merely editorial and do not affect the understanding of the subject matter. It is unclear why they are necessary. Furthermore, (4) changes to the claimed structural names are unclear as to the positions being made.

Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction with respect to applicants request.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

/A. Green/

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Gregory A. Nelson
P.O. Box 3188
West Palm Beach, FL 33402-3188

/arg

UNITED STATES 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

ROBERT D KUCLER ESQUIRE
REED SMITH LLP
PO BOX 488
PITTSBURGH PA 15230-0488

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AUG 0 5 2003

OFFICE OF PETITIONS

In re Application of :
Aagaard, et al. :
Application No. 10/008,077 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. 01-602-US :

This is a decision on the petition under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed May 20, 2003.

The petition is **DISMISSED AS INAPPROPRIATE.**

The record discloses that on November 8, 2001, the date of filing of the instant application, a Request and Certification under 35 USC 122(b)(2)(B)(i) was filed, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 USC 122(b)(2)(B)(ii) that the Request and Certification under 35 USC 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on **November 8, 2001**, which date is **the same date as** the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the published international application filed on the same date as the present application. In this regard, 35 USC 122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application.** A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed on November 8, 2001, and the corresponding application was filed on November 8, 2001. The statute does not provide for the situation where a certification under 35 USC 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed or filed on the same day in another country or under a multilateral agreement. The statute at 35 USC 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 USC 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f)is inappropriate and must be dismissed.

As requested, the Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing indicating a projected publication date of November 13, 2003 accompanies this decision.

The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition. See 35 USC 41(a)(7). Payment of the $1,300 petition fee is acknowledged.

The application is being forwarded to the Technology Center 2600 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 and Notice of Foreign Filing (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRANK L. KUBLER
13261 S.W. 54TH COURT
MIRAMAR, FL 33027

COPY MAILED

AUG 17 2005

OFFICE OF PETITIONS

In re Application of :
Rafael Jakubow :
Application No. 10/008,095 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed October 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 19, 2004.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3700, Art Unit 3764 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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#9

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NOV 27 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Mark T. Garrett, Esq.
Fulbright & Jaworski, LLP
600 Congress Avenue
Suite 2400
Austin, TX 78701

In re Application of :
Paul A. Crawford :
Application No. 10/008,106 :
Filed: November 9, 2001 :
For: PUP JOINT WITH INTEGRAL WING NUT RETENTION SHOULDER

DECISION ON PETITION TO ACCEPT A LATE COMMUNICATION

This is in response to applicant's communication filed in the United States Patent and Trademark Office (USPTO), on September 12, 2002. This communication is being treated as a petition to accept a late communication under 37 CFR 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that a non-final rejection setting a three month shortened statutory period was mailed to the applicant on September 3, 2002.

The applicant has submitted, on September 12, 2002, a copy of an Information Disclosure Statement (IDS), which includes a signed Certificate of Mail having a mail date of February 20, 2002. A statement attesting to the timely mailing of the correspondence by Mark Garrett is also included. This is acceptable evidence to accord the IDS the date of February 20, 2002.

Since an IDS was properly filed prior to the mail date of the Office action of September 3, 2002 and was not considered in the creation of that Office action, that Office action is hereby VACATED. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the IDS filed with the petition, and then to the Examiner for a new non-final Office action on the merits.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.

Donald T. Hajec, Director
Patent Technology Center 3600
(703) 306-4180
Facsimile No.: (703) 306-4598

SM/sm: 11/23/02
SM

Express Mail Label No.: EL752686606US
Date of Deposit: July 9, 2002

Attorney Docket No. 22426-501 (SYNC-1)

OIPE JC132 JUL 09 2002 PATENT & TRADEMARK OFFICE

RECEIVED JUL 31 2002 TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Ramon W. Mohanlal		
SERIAL NO.:	10/008,107	EXAMINER:	
FILING DATE:	November 13, 2001	ART UNIT:	N/A
FOR:	IN VITRO CELL-BASED METHODS FOR BIOLOGICAL VALIDATION AND PHARMACOLOGICAL SCREENING OF CHEMICAL ENTITIES AND BIOLOGICALS		

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RECEIVED JUL 23 2002 TC 3700 MAIL ROOM

TRANSMITTAL LETTER

In response to the Notice to File Missing Parts mailed January 9, 2002, transmitted herewith for filing in the present application are the following documents:

1. Response Under 37 C.F.R. § 1.52 or 1.53 (1 pg.);
2. Petition for FOUR-MONTH Extension of Time (1 pg.);
3. Executed Combined Declaration and Power of Attorney
4. Check #1179 for $65.00;
5. Check #1181 for $720.00; and
6. Return Postcard.

This response is due on or before July 9, 2002. The Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. **50-0311**, Ref. No. 22426-501 (SYNC-1).

Respectfully submitted,

Dated: July 9, 2002

Matthew J. Golden, Reg. No. 35,161
Attorneys for Applicants
c/o MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

OIPE
JUL 09 2002
PATENT & TRADEMARK OFFICE

Express Mail Label No.: EL752686606US
Date of Deposit: July 9, 2002

PATENT APPLICATION
Attorney Docket No. 22426-501 (SYNC-1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
JUL 31 2002
TECH CENTER 1600/2900

ART UNIT: N/A
APPLICANT: Ramon W. Mohanlal
SERIAL NO: 10/008,107
FILING DATE: November 13, 2001
FOR: IN VITRO CELL-BASED METHODS FOR BIOLOGICAL VALIDATION AND PHARMACOLOGICAL SCREENING OF CHEMICAL ENTITIES AND BIOLOGICALS

RECEIVED
JUL 23 2002
TECH CENTER 1600/2900
ROOM

July 9, 2002
Boston, Massachusetts

Box MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice To File Missing Parts of Nonprovisional Application mailed January 9, 2002, Applicants submit herein an executed Combined Declaration and Power of Attorney form, payment of the surcharge of $65.00 (check #1179) as set forth in 37 C.F.R. §1.16(e), Petition for Four-Month Extension of Time, a check in the amount of $720.00 (check #1181) to cover the Petition fee. This response is due on or before July 9, 2002, with the extension.

Please charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 22426-501 (SYNC-1).

Applicant hereby regrets that a copy of the Notice to File Missing Parts of Nonprovisional Application is not enclosed due to it being misplaced. We apologize for any inconvenience this may cause the Commissioner.

Respectfully submitted,

07/16/2002 HMARZI1 00000016 10008107
01 FC:205 65.00 OP

Matthew J. Golden, Reg. No. 35,161
Attorney/Agent for Applicant
c/o MINTZ, LEVIN, COHN, FERRIS
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241

Date: July 9, 2002

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
10/008,107	11/13/2001	Ramon W. Mohanlal	22426-501 (SYNC-1)

CONFIRMATION NO. 6486

FORMALITIES LETTER

OC000000007287558

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY and POPEO, P.C.
One Financial Center
Boston, MA 02111

Date Mailed: 01/09/2002

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 oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 65.**

A copy of this notice MUST be returned with the reply.

ZA

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

NOV 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Ramon Mohanlal :
Application No. 10/008,107 : DECISION ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 22426-501 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2004, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed March 11, 2003. The non-final Office Action set a one (1) 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 April 12, 2003. A Notice of Abandonment was mailed on July 26, 2004.

This petition is hereby **GRANTED**.

It is noted that petitioner states a Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence address were submitted with the instant petition. However, a review of the record shows the above items cannot be located. Accordingly, the power of attorney and change of correspondence address will not be entered. Petitioner will however receive a courtesy copy of this decision. To receive future correspondence a Power of Attorney and Change of Correspondence Address should be submitted.

The Office hereby acknowledges the receipt of the Response to the Restriction and Election Requirement submitted with the instant petition.

This application is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Cheryl H. Agris
P.O. Box 806
Pelham, NY 10803

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/07/08

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10008121 Patent No.: 6819912 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
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: _____

_____

_____

_____

_____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

3/12/08

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

SC11807TS

PTO/SB/ 44 (04-05)
Approved for use through 04/30/2007 OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6819912 B2
APPLICATION NO: 10/008121
DATE: OF ISSUE 11-05-2001
INVENTOR(S): ROECKNER, WILLIAM J

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In Column 7, Line 66, Claim No. 1:
Change "rate convener" to –rate converter–

MAILING ADDRESS OF SENDER (Please do not use customer number below)
Freescale Semiconductor, Inc.
Law Department
7700 West Parmer Lane PL02
Austin, TX 78729

PTO/SB/ 44 (04-05)
Approved for use through 04/30/2007 OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.:	6819912 B2
APPLICATION NO:	10/008121
DATE OF Issue	11-05-2001
INVENTOR(S):	ROECKNER, WILLIAM J et al.

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

In Column 8, Line 26, Claim No. 7:

Change "switching signal" to - -switching amplifier- -.

MAILING ADDRESS OF SENDER (Please do not use customer number below)
Freescale Semiconductor, Inc.
Law Department
7700 West Parmer Lane PL02
Austin, TX 78729

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 30 2006

OFFICE OF PETITIONS

WHITE & CASE LLP
PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:
Gerhard Keller	: DECISION GRANTING PETITION
Application No. 10/008,126	: AND WITHDRAWING THE
Filed: December 5, 2001	: HOLDING OF ABANDONMENT
Attorney Docket No. 1140668-0044	:

This is a decision on the "CONDITIONAL PETITION TO WITHDRAW ANY HOLDING OF ABANDONMENT", filed December 16, 2005, which is being treated as a petition under 37 CFR 1.181.

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 non-final Office action mailed June 8, 2005. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No response having been received, the application became abandoned on December 9, 2005. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

Petitioner states that he did not timely receive June 8, 2005 Office action. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been

received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all

Here, petitioner has submitted a satisfactory docket record, and attested that a search of the file jacked and records was conducted but no Office action was found.

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 matter is being forwarded to Group Art Unit 2136 for re-mailing of the June 8, 2005 Office action, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

COPY MAILED

SEP 2 6 2003

OFFICE OF PETITIONS

Steven J. Funk
Sprint Corporation
8140 Ward Parkway
Kansas City, MO 64114

In re Application of :
Bryce A. Jones :
Application No. 10/008,134 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No.Sprint No. 1652 :
(MBHB 01-

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 12, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on November 8, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant subsequently foreign filed the application on September 19, 2002. On August 20, 2002, prior to foreign-filing the application, Applicant filed a Request to Rescind Previous Nonpublication Request.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

A refund of the petition fee of $1,300 has been scheduled.

A corrected filing receipt, setting forth a projected publication date of February 26, 2004, accompanies this decision.

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[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.

The application file is being forwarded to Technology Center 2600 for examination in due course.

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 regarding this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

cc: McDonnell Boehnen
Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 7

Wendi R. Schepler
Carr & Ferrell, L.L.P.
2225 East Bayshore Road, Suite 200
Palo Alto, California 94303

MAIL

OCT 0 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Yoram Nelken	)	
Application No. 10/008,152	)	**DECISION ON PETITION**
Filed: December 4, 2001	)	**FOR ACCELERATED**
For: SYSTEM AND METHOD FOR	)	**EXAMINATION UNDER**
AUTOMATIC TASK	)	**M.P.E.P. §708.02(VIII)**
PRIORITIZATION	)	

This is a decision on the petition, filed August 21, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, ...

(c) Submits a statement(s) that a pre - examination search was made, ***listing the field of search by class and subclass,*** publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission is deficient in that it merely provides a brief synopsis of each reference accompanied by a statement that the particular reference does not include the features of the claimed invention. That is, there is no detailed discussion of the references, which points out with particularity how the claimed subject matter is patentable over the referenes as required by section (e) to the extent required by 37 CFR 1.111(b) and (c).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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JAN 3 1 2003

Technology Center 2100

Paper No. 9

Wendi R. Schepler
Carr & Ferrell, L.L.P.
2225 East Bayshore Road, Suite 200
Palo Alto, California 94303

In re Application of: Yoram Nelken	)	
Application No. 10/008,152	)	**DECISION ON PETITION**
Filed: December 4, 2001	)	**FOR ACCELERATED**
For: SYSTEM AND METHOD FOR	)	**EXAMINATION UNDER**
AUTOMATIC TASK	)	**M.P.E.P. §708.02(VIII)**
PRIORITIZATION	)	

This is a decision on the request for reconsideration filed December 9, 2001 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special. The petition was filed in response to a dismissal of the original petition filed August 21, 2002.

The Petition is **DENIED**.

BASIS OF DECISION

The following are the relevant portions of the MPEP and Regulations:

M.P.E.P. §708.02, Section VIII

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

...

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

37 C.F.R. §1.111 Reply by applicant or patent owner to a non-final Office action.

(b) .... The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. ... A general allegation that the claims define a patentable invention ***without specifically pointing out how the language of the claims*** patentably distinguishes them from the references does not comply with the requirements of this section. ***[Emphasis added]***

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner ***must clearly point out the patentable novelty*** which he or she thinks ***the claims present*** in view of the state of the art disclosed by the references cited or the objections made. ***[Emphasis added]***

DECISION

The decision mailed October 3, 2002 dismissed the petition based upon a failure to provide a detailed discussion of the references, which points out with particularity how the claimed subject matter is patentable over the references to the extent required by 37 CFR 1.111(b) and (c).

Applicant makes no effort to correct the noted deficiency. Instead applicant submits that the original petition was adequate in that it "discusses each reference in sufficient detail to distinguish it from Applicant's claimed invention".

In this instance, Applicant's submission describes each reference succinctly and then attempts to differentiate with compound statements which depend on language not found in the independent claims. For example, "Using the results of natural language processing to assign a priority to a communication, as claimed by Applicant, is not disclosed or taught by this patent" is given as the reason for patentability over the first 9 references. The claims make no mention of "natural language processing". Therefore, this discussion fails to point out with particularity how the ***claimed*** subject matter is patentable over the references.

Accordingly, the Petition is **DENIED**.

The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20060121

DATE : Dec. 28, 2005

TO SPE OF : ART UNIT 2129 (*David R. Vincent*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,961,720

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.
Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

Application Serial NO- 10/008,152
Examiner reviewed the Specification and found that the certificate of Correction filed 12/12/05 should be approved.

GEORGE B. DAVIS
PRIMARY EXAMINER

DAVID VINCENT
SUPERVISORY PATENT EXAMINER

SPE

2129
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES INC
LEGAL DEPARTMENT DL429
P O BOX 7599
LOVELAND COLORADO CO 80537-0599

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Lum et al.	:	
Application No. 10/008,159	:	DECISION ON PETITION
Filed: November 6, 2001	:	
Attorney Docket No. 38187-2563	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed December 27, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on March 28, 2008. A Notice of Abandonment was mailed September 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Additionally, petitioner has requested a petition under 37 CFR 1.137(b) and submitted a fee of $1,510.00 rather than the actual current fee of $1,620.00, thus creating a shortage of $110.00. The amount of $110.00 has been deducted from the above extension of time refund, thus lowering the refund to $940.00.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 three month extension of time fee submitted with the petition on September 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

The Revocation and Power of Attorney submitted on September 23, 2008 was accepted on February 13, 2009. However, as the document specified two Customer Numbers, only the attorneys associated with Customer Number 22878 were acknowledged; the attorneys associated with Customer Number 77845 were not as the Office will not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. See MPEP 403.

The Power of Attorney submitted on February 5, 2009 is hereby not accepted as the person signing does not list a proper title (i.e. chief executive officer, president, vice-president, secretary, or treasurer, etc.) and therefore does not comply with 37 CFR 3.73(b)(2)(ii). The submission must be signed by a person in the organization having apparent authority to sign on behalf of the organization. A courtesy copy of this decision is being mailed to the address listed on the petition; however, all future correspondence will be mailed to the current address of record until such time as it is properly changed.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 3763 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Paul Davis
Goodwin|Procter LLP
135 Commonwealth Drive
Menlo Park, CA 94025

PTO/SB/96 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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OFFICE OF PETITIONS

GOODWIN PROCTER LLP
ATTN: PATENT ADMINSTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

In re Application of	:	
Paul LUM, et al	:	
Application No. 10/008,159	:	DECISION ON PETITION
Filed: November 6, 2001	:	
Docket No. PEL-2563	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 9, 2009, 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 10, 2009.

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 $1620; and (3) and the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on December 17, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account No. 50-4634.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3763 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

#8

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JUL 13 2004

TECHNOLOGY CENTER 2100

Paper No. 8

Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

In re Application of:
Hui HU, et al.
Application No. 10/008,162
Filed: November 7, 2001
For: DISPLAY PARAMETER-DEPENDENT PRE-TRANSMISSION PROCESSING OF IMAGE DATA

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 26, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Suneel Arora
Schwegman Lundberg Woessner & Kluth P.A
Suite 1600, TCF Tower
121 South 8th Street
Minneapolis, MN 55402

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PHARMACIA CORPORATION
GLOBAL PATENT DEPARTMENT
POST OFFICE BOX 1027
ST. LOUIS, MO 63006

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Xiaorong He :
Application No. 10/008,223 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. PC31297 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 10, 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 as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 15, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 16, 2008. *See* MPEP 1215.04.

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)(II)(C) and (D). The instant petition lacks item 1.

While petitioner indicates the proposed reply is in the form of a continuation application, a review of the record fails to uncover a continuation application under 37 CFR 1.53. It is noted that a copy of the present application papers was uploaded to the file, along with the petition to revive on January 10, 2008. There is no indication that a new continuing application, including the specific reference to the present application as required by 35 U.S.C. 120, was submitted and processed by the Office. However, it appears that new filing fees were paid on January 10, 2008. If petitioner is aware that a new continuing application has, in fact, been processed and assigned a new application number, petitioner must promptly disclose the continuing application number in the renewed petition to revive.

Petitioner is also reminded that when a continuing 6application is filed in lieu of a reply in the abandoned application, the petition to revive should include a letter of express abandonment of the prior application, conditioned upon the granting of the petition to revive and a filing date to the continuing application.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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OFFICE OF PETITIONS

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

In re Application of :

HORTON :
Application No. 10/008,224 : DECISION ON PETITION
Filed: November 6, 2001 : TO WITHDRAW
Attorney Docket No. 1300-015 : 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 2, 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 Howard A. MacCord Jr., on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the sole named signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Isaac B. Horton
REMOTELIGHT, INC.
8824 Stage Ford Road
Raleigh, NC 27615

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/008,224	11/06/2001	Isaac B. Horton III	1300-015

CONFIRMATION NO. 6966

OC000000020595665

4678
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

Date Mailed: 09/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/02/2006.

- 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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

Myers Bigel Sibley & Sajovec
PO Box 37428
Raleigh, NC 27627

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DEC 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Thorpe et al. :
Application No. 10/008,233 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No. 5470-107BDV3 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 6, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 11, 2002, which set a reply period of (1) one month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 12, 2002.

The application is being forwarded to Technology Center AU 1634 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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 5

RALPH C. FRANCIS
FRANCIS LAW GROUP
1808 SANTA CLARA AVE
ALAMEDA CA 94501

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JUN 19 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Alexander K. Mills et al.
Application No. 10/008,245
Filed: November 7, 2001
Attorney Docket No. : WT-02-004C

This is a decision on the petition filed May 15, 2003 under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/684,104 filed October 6, 2000.

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). 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) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) 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 7, 2001 and was copending with the above-noted, prior filed nonprovisional application, at the time of filing, for which priority

[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 others related applications may be made when appropriate (see § 1.14).

is claimed.

The above reference to the above-noted, prior-filed nonprovisional application however, was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e. , in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, an amendment is required.

Additionally, the fees set forth in 37 CFR 1.17(t) for acceptance of an unintentionally delayed claim for priority are $1300.00, effective January 1, 2003. As $1240.00 was received May 15, 2003 with the above referenced petition, please submit $60.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball in the Office of Petitions at (703) 305-4497.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

RALPH C. FRANCIS
FRANCIS LAW GROUP
1808 SANTA CLARA AVE
ALAMEDA CA 94501

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JUL 22 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Alexander K. Mills et al.
Application No. 10/008,245
Filed: November 7, 2001
Attorney Docket No. : WT-02-004C

This is a decision on the renewed petition filed July 11, 2003 under 37 CFR 1.78(a)(3), and the amendment submitted June 19, 2003 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional Application No. 09/684,104 filed October 6, 2000.[1]

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). 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) 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) 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 7, 2001, and was copending with

---

[1]A petition under 37 CFR 1.78(a)(3) was filed May 15, 2003 and dismissed in a decision dated June 19, 2003. The petition filed May 15, 2003 did not include an amendment and the petition fees submitted were insufficient.

[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 and indicating the relationship of the applications. Cross references to others related applications may be made when appropriate (see § 1.14).

the above-noted, prior filed nonprovisional application, at the time of filing, for which priority is claimed. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

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). Also, the reference to the prior-filed nonprovisional was submitted during the pendency of the nonprovisional application for which the benefit is sought. See *35 U.S.C. § 120.* Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120, the petition to accept an unintentionally delayed claim of benefit to prior-filed nonprovisional Application no. 09/827,096 is granted as of the date of filing the petition.

The fee required by 37 CFR 1.78(a)(3) has been set at $1300, effective January 1, 2003. $1240 was submitted May 19, 2003 and the balance of $60 has been submitted with the renewed petition.

Any inquiries concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball in the Office of Petitions at (703) 305-4497.

This application is being forwarded to Technology Center Art Unit 3736 for processing the amendment filed June 19, 2003 and for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(3) for the benefit of the above-noted, prior-filed nonprovisional application.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Prasanna Amerasinghe et al. :
Application No. 10/008,254 : DECISION ON PETITION
Filed: November 9, 2001 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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Commissioner for Patents
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THE LAW OFFICES OF KENNETH W. FLOAT
2095 HWY. 211 NW, SUITE 2-F
BRASELTON GA 30517

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AUG 10 2007

OFFICE OF PETITIONS

In re Application of :
Glenn A. Barber et al :
Application No. 10/008,260 : DECISION ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. Y01-067 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 17, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 19, 2005 (July 17, 2005, the due date, is a Sunday). A Notice of Appeal was filed on January 9, 2006, along with a two (2) month extension of time.[1] However, as the Notice of Appeal was not filed within the extendable time period set in the Office action of May 17, 2005, the Notice of Appeal was untimely. A Notice of Abandonment was mailed on September 25, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a Notice of Appeal and fee, 2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 17, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2173 for appropriate action in the normal course of business on the Appeal Brief filed December 11, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] As the two month extension of time fee was submitted outside the maximum period for reply, this fee is unnecessary. Petitioner may request a refund of the $225 extension of time fee submitted on January 9, 2006 by writing to Mail Stop 16, Director of the U.S. Patents and Trademarks, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL J. BOLAN
BINGHAM MCCUTCHEN
THREE EMBARCADERO CENTER
SUITE 1800
SAN FRANCISCO, CA 94111

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of :
James M. Kates :
Application No. 10/008,268 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 22645-7085 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 29, 2004 which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on December 20, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed January 12, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 30, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of October 29, 2004 is accepted as having been unintentionally delay.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2646.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 13

PFIZER, INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

COPY MAILED

JUN 2 2 2004

OFFICE OF PETITIONS

In re Application of :
John A. Ragan :
Application No. 10/008,294 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. PC10847A :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2004, to revive the above-identified application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely reply within three months to the Office action mailed July 8, 2003. Accordingly, this application became abandoned on October 9, 2003. A Notice of Abandonment was mailed on March 25, 2004.

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 pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay

the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirements (1) and (3) above.

Regarding Item (1):

Petitioner states, "The reply/or fee to the above-noted Office action in the form of Continuation Application is enclosed herewith." The application file has been carefully reviewed and the aforementioned Continuation Application cannot be located with the petition nor in the file.

Regarding Item (3):

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," has not been submitted. It is noted that the second page of the instant petition is not found in the application file.

Accordingly, the petition must be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE – 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Linda Ann Roberts et al	:	
Application No. 10/008,295	:	DECISION ON PETITION
Filed: November 13, 2001	:	TO WITHDRAW
Attorney Docket No. BELL-0130/01183	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jonathan M. Waldman and others has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(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 Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BellSouth Intellectual Property Corporation
824 Market Street, Suite 901
Wilmington, DE 19801

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 3

Sosan B. Fentress
Buler, Snow, O'Mara, Stevens & Cannada, PLLC
P.O. Box 171443
Memphis, TN 38187

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SEP 26 2002

OFFICE OF DIRECTOR
GROUP

In re Application of:
Mark B. Hodes
Application No. 10/008,306
Filed: December 7, 2001
Attorney Docket No. 023987.43009

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 20, 2000.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of the others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by all attorneys named as having power of attorney in this application. Additionally, there is no outstanding Office action requiring a response from applicant.

For the above reasons, the request is **approved.** There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to Mark B. Hodes at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mark B. Hodes
5350 Poplar Avenue, Suite 750
Memphis, TN 38119

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. 032304

Mark B. Hodes
5350 Poplar Avenue
Suite 750
Memphis, TN 38119

Todd B. Murrah
26 North Second Street
Memphis, TN 38103

In re Application of	)	
Mark B. Hodes	)	
Application No. 10/008,306	)	DECISION ON REQUEST TO
Filed: December 7, 2001	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 023987.43009	)	

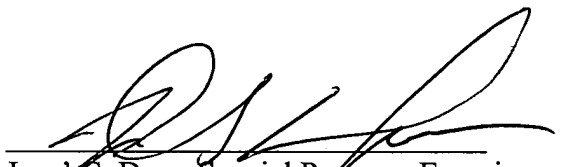
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 17, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above listed requirements.

The request is APPROVED.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.



Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Christopher Lamberson, Esq.
Glanker Brown, PLLC
One Commerce Square, Suite 1700
Memphis, TN 38103-2566

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UNITED STATES PATENT AND TRADEMARK OFFICE
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NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

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FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Readhead et al. :
Application No. 10/008,385 :
Filed: November 12, 2001 :
Attorney Docket No. :
20040351.DIB : ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed August 30, 2004, to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to timely reply to the nonfinal Office action, mailed October 6, 2003. The Notice set a three (3) month period for reply. No reply having been received, the above-identified application became abandoned January 7, 2004. A Notice of Abandonment was mailed on April 19, 2004.

Applicant avers non-receipt of the Office action, mailed October 6, 2003. In support, Applicant has provided the necessary statements and copies of the docket record where the non-received Office action would have been entered had it been received and docketed. Applicant has demonstrated by a preponderance of the evidence that the Office action was not received.

The Notice of Abandonment is hereby withdrawn. A refund of the petition fee, $110.00, has been credited to deposit account no. 08-1265 as authorized in the Transmittal, filed with the instant petition.

The application file is being referred to Technology Center Art Unit 1632 for re-mailing of the Office action.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/3/05

2 Serial/Patent # 10/008,385

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition	IFW	8/30/04	$ 110.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 110.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [X] Credit Deposit A/C #:

9 0 8 -- 1 2 6 5

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [ ] No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Derek Woods TITLE: Attorney

SIGNATURE: Derek Woods PHONE: 571-272-3232

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 2/4/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC - 8 2004

Paper No. 11

In re Application of :
Melvin A. Zehr :
Application No. 10/008,407 : DECISION ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. DOAZ113 :

This is a decision on the petition filed on June 7, 2004 by which petitioner requests withdrawal of holding that this application stands abandoned for failure to file a timely reply to the final Office action dated September 16, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. A facsimile transmission of a duplicate of the petition was filed on June 19, 2004 has been discarded. See 37 CFR 1.4(b).

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply, and a copy of a post card receipt showing that these papers were received in the Office on December 8, 2003, a date within the period set for filing a reply to the Office letter in question, as extended. Because the reply was directed to a final rejection, it has been submitted to the Primary Examiner for review. The Primary Examiner reports that the reply complies with 37 CFR 1.113 and 1.116. Based upon the evidence of timely filing and the report of the Primary Examiner, it is clear that this application is not abandoned. .

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is December 8, 2003. Thereafter, the application will be forwarded to the examiner for immediate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Robert L. Shaver
Dykas, Shaver & Nipper, LLP
P.O. Box 877
Boise, ID 83701-0877

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900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS MN 55402

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of
Miller et al.
Application No. 10/008, 415
Filed: November 13, 2001
Attorney Docket No. 20050355.ORI

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 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 a Notice of Non-Compliant Amendment mailed October 28, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 29, 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 amendment with claims that have the proper status identifiers; (2) the petition fee of $750; and (3) the required statement of unintentional delay. Accordingly, the reply to the non-final Office action of March 24, 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 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 reply until the filing of the 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 Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3763 for further processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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APR 2 1 2003

OFFICE OF PETITIONS

John A. Caccuro
9 Ladwood Drive
Holmdel NJ 07733

In re Application of
Chiussi, et al.
Application No. 10/008,425
Filed: November 13, 2001
Attorney Docket No. 23-1-2-11-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed March 17, 2003, and the renewed petition under 37 CFR 1.137(b) filed March 31, 2003, to revive the above-identified application.

The petition filed March 17, 2003 is **granted**.

The renewed petition filed March 31, 2003, is **moot.**

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed December 31, 2001, which set forth a two (2) month period for reply. No extensions of time under 37 CFR § 1.136(a) were obtained. Accordingly, this application became abandoned on March 4, 2002. A Notice of Abandonment was mailed on February 27, 2003.

Petitioner responded appropriately to the Notice by filing on March 17, 2003, the executed oath or declarations for the remaining named inventors and by remitting the $130.00 surcharge on March 31, 2003.

The renewed petition filed March 31, 2002, is moot as there is no further remedy that can be provided as the application is being revived pursuant to the petition under 37 CFR 1.137(b) filed March 17, 2003.

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned, at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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AUG 22 2002

OFFICE OF PETITIONS

COOPER & DUNHAM LLP
1185 Avenus of the Americas
New York, NY 10036

In re Application of
Mizushima et al.
Application No. 10/008,443
Filed: December 3, 2001
Attorney Docket No. 6640/66050

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed May 13, 2002 (certificate of mailing date May 5, 2002), under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 3, 2001, without an executed oath or declaration. Accordingly, on February 14, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 14, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a one (1) month extension of time was also submitted. In support of the petition, applicants submitted a statement of facts.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

As to item (1), Rule 47 applicant has failed to show that co-inventor Hagioda was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The statement of facts indicatesonly the declaration and assignment documents were sent to inventor Hagioda. Inventor Hagioda must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Nancy Johnson for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of
Yasumasa Mizushima, Masami Kinugasa, Zenta Watanabe, Masakatsu Mori, Eumio Koyama, Nobuaki Katsuya, Koji Hagioda, Haruyo Endo, and Yukihiro Eukuda
Application No. 10/008,443
Filed: December 3, 2001
Attorney Docket Number: 6640/66050
Title of Invention: INFORMATION PROCESSING APPARATUS AND INFORMATION PROCESSING METHOD, NETWORK SYSTEM, RECORDING MEDIUM, AND COMPUTER PROGRAM

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

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OFFICE OF PETITIONS

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 21, 2003 and supplemented March 4, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of Yoriko Konishi attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
David Hohl et al :
Application No. 10/008,472 : DECISION GRANTING PETITION
Filed: November 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. LIFE-052 :

This is a decision on the petition, filed April 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 5, 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 2674 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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P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH S. TRIPOLI
THOMSON MULTIMEDIA LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Donald Henry Willis :
Application No. 10/008,484 : ON PETITION
Filed: November 5, 2001 :
Attorney Docket No. PU000146 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 2005, to revive the above-identified application.

In response to the non-final Office action mailed April 23, 2004, petitioner hereby submits $1,500 for the petition to revive fee, an amendment, and the statement of unintentional delay as required by 37 CFR 1.137(b). As authorized, the above petition fee has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2614, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
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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CHARLES J. PRESCOTT
CHARLES J. PRESCOTT, P.A.
SUITE 115
2033 WOOD STREET
SARASOTA, FL 34237-7926

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AUG 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Siegfried K. Holz :
Application No. 10/008,488 : DECISION GRANTING PETITION
Filed: November 5, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P-1783 :

This is a decision on the petition, filed May 19, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on August 20, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of November 11, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 3731 for examination in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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COMBIMATRIX CORPORATION
6500 HARBOUR HEIGHTS PARKWAY
MUKILTEO WA 98275

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Karl Maurer	:	
Application No. 10/008,547	:	DECISION GRANTING PETITION
Filed: November 9, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 0109	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The 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 May 22, 2002, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This is being forwarded Technology Center AU 2822.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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DNAX RESEARCH INC
LEGAL DEPARTMENT
901 CALIFORNIA AVE
PALO ALTO CA 94304

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FEB 23 2005

OFFICE OF PETITIONS

In re Application	:	
Reche-Gallardo, et al.	:	
Application No. 10/008,566	:	DECISION ON APPLICATION
Filed: February 8, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. DX01341	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. 1.705)(b)," filed August 24, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred forty-four (344) days to four hundred twenty-one (421) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. However, Applicants' request that an additional PTO delay of twenty-two (22) days be assessed is being **HELD IN ABEYANCE** until after the actual patent date.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred ninety-nine (399) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 25, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred forty-four (344) days. On August 24, 2004, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twenty-one (421) days.

Applicants assert entitlement to a patent term adjustment of four hundred twenty-one (421) days on the basis that the PTO improperly assessed Applicants a delay of thirty-six (36) days for responding to a Notice to File Missing Parts mailed on January 29, 2002. Applicants assert that they filed a response on May 8, 2002, and pursuant to 37 C.F.R. §1.704(b), should have been assessed applicant delay of nine (9) days, not thirty-six (36) days.

In addition, Applicants assert that the PTO improperly assessed applicant delay of twenty-eight (28) days for a supplemental reply filed on April 19, 2004. Applicants originally had filed an Amendment to a February 20, 2004 Office action on March 22, 2004. Applicants assert that the Supplemental Amendment was filed in response to a telephone interview with the Examiner.

Lastly, Applicants assert additional PTO delay of twenty-two (22) days for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[2]

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of three hundred forty-four (344) days based on an adjustment for PTO delay of five hundred eight (408) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by

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[1] Applicants filed the PTA prior to filing the issue fee.

[2] Applicant should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (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).

Applicants' delay of thirty-six (36) days pursuant to 35 U.S.C. 154(b)(1)(C)(ii) and 37 C.F.R. §1.704(b), and twenty-eight (28) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. §1.704(c)(8). The PTO delay of 408 days has been reviewed and found to be correct. The adjustments of 36 and 28 days are at issue.

The adjustment of 36 days has been found to be incorrect. A review of the application file reveals that a Notice to File Missing Parts of Nonprovisional Application was mailed on January 29, 2002. Applicants timely filed a complete response to this notice on May 8, 2002. Accordingly, pursuant to 37 C.F.R. §1.704(b), nine (9) days of applicant delay should have been assessed, not 36 days.

The adjustment of 28 days has also been found to be incorrect. A review of the application file reveals an interview summary, in which the Examiner indicated what Applicants needed to do to place the claims in condition for allowance. In view thereof, it is concluded that the Supplemental Amendment was "expressly requested by the examiner" as set forth in 37 C.F.R. §1.704(c)(8), and as such, no applicant delay should have been assessed.

Lastly, Applicants assert that additional PTO delay of twenty-two (22) days for the failure on the part of the Office to issue the patent within three years of its filing. The Office will be able to assess whether or not any additional PTA is accorded once the issue date is established.[3]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred ninety-nine (399) days** (408 days of PTO delay, reduced by 9 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 04-1239, as authorized.

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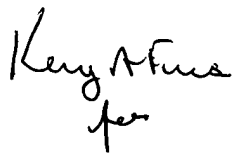
[3] Applicants should note that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period of pendency before the Office except for periods excluded under 35 U.S.C. (b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the 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).

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

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1880 CENTURY PARK EAST, 12TH FLOOR
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Bedabrata Pain et al	:	
Application No. 10/008,568	:	ON PETITION
Filed: November 16, 2001	:	
Attorney Docket No. 0007975-0025	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed November 7, 2003, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 10, 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 formal drawings; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the formal drawings are accepted as having been unintentional delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KILPATRICK STOCKTON LLP
Attn: John S. Pratt
Suite 2800
1100 Peachtree Street
Atlanta, GA 30309-4530

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of
Mabry et al.
Application No. 10/008,601
Filed: November 5, 2001
Attorney Docket No. 1069 1050

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed October 29, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 13, 2004. A Notice of Abandonment was mailed on August 25, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The papers indicate petitioner intended to submit a check for $1,700 with the papers. However, Office records fail to indicate receipt of a check. Therefore, $685 for the issue fee, $300 for the publication fee, $685 for the petition fee, and $30 for copies of the patent, has been charged to petitioner's deposit account.

The Office of Publication will be informed the application has been revived so that it may take steps to process the application into a patent.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Robert M. Isackson
ORRICK, HERRINGTON & SUTCLIFFE LLP
666 Fifth Avenue
New York, NY 10103-0001

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OFFICE OF PETITIONS

In re Application of

Casset and Limousin

Application No. 10/008,609

Filed: November 8, 2001

Attorney Docket No. 8707.2132

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 27, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1500.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed July 28, 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 October 29, 2004. A Notice of Abandonment was mailed on December 14, 2004.

The issue fee of $1,400.00 and publication fee of $300.00 were received on December 27, 2004.

Form PTOL 85-B received December 27, 2004, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	/

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted 37 CFR 1.84 (Color Photos)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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MAY 18 2004

Paper No. 9

In re Application of
Thomas Walsh
Application No. 10/008,635
Filed: December 4, 2001
Attorney Docket No. LAM2P232A

: DECISION ON PETITION

This is a decision on the petition filed on April 19, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated August 8, 2003 (not October 29, 2003 as stated in the Notice of Abandonment). The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a timely and proper reply to the final Office action was in fact filed. Petitioner has supported this allegation by furnishing a copy of the reply and a copy of a filing receipt for the reply which shows that the reply was in fact received in the Office on November 21, 2003, a date within the period set by the August 8, 2003 Office letter for filing a reply thereto, as extended by the one month extension of time requested in the reply. As the reply is a Request for Continued Examination (RCE) under 37 CFR 1.114, the reply is a proper reply to the final Office action. In addition, Office financial records show that the fees for the extension and for the RCE have in fact been received and applied.

Based on the evidence furnished by petitioner, it is clear that this application is not abandoned. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the RCE filed on November 21, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Martine & Penilla, LLP
710 Lakeway Drive
Suite 170
Sunnyvale, CA 94085

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Paper No. 6

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application of
Gregory J. Wilson, John M. Penderson, and
Steve L. Eudy
Application No. 10/008,636
Filed: December 4, 2001
Attorney Docket No. 29195.8172US
Title: CONTACT ASSEMBLIES, METHODS FOR MAKING CONTACT ASSEMBLIES, AND MACHINES WITH CONTACT ASSEMBLIES FOR ELECTROCHEMICAL PROCESSING OF MICROELECTRONIC WORKPIECES

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed July 26, 2001.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.47(a)."

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

On December 4, 2001, the application was deposited, identifying Gregory J. Wilson, John M. Penderson, and Steve L. Eudy as joint inventors. The application was deposited without an executed oath or declaration. On December 26, 2001, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration, a surcharge of $130.00, and substitute drawings were required. This Notice set a two-month period for reply.

With the instant petition, the petitioner has included the filing fee for the petition, the $130.00 surcharge, a five month extension of time to make timely this reply, a declaration executed by each inventor save inventor Pedersen, statements of facts from both the attorney of record and his paralegal, and copies of a letter sent to the non-signing inventor.

Petitioner has met requirements (1)-(5) of 37 C.F.R. §1.47(a) above.

Regarding the sixth requirement, petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by inventor Eudy[2].

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[3]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[4]), the reply may be mailed[5].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

/Beverly M. Flanagan/

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 See 37 C.F.R. §1.52(c)(1).
3 (703) 308-6916, Attn: Office of Petitions.
4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
5 Commissioner for Patents, Box DAC, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

PERKINS COIE LLP
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OFFICE OF PETITIONS

In re Application of
Gregory J. Wilson, John M. Penderson, and
Steve L. Eudy
Application No. 10/008,636
Filed: December 4, 2001
Attorney Docket No. 29195.8172US
Title: CONTACT ASSEMBLIES, METHODS FOR MAKING CONTACT ASSEMBLIES, AND MACHINES WITH CONTACT ASSEMBLIES FOR ELECTROCHEMICAL PROCESSING OF MICROELECTRONIC WORKPIECES

DECISION ON RENEWED
PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed December 6, 2002.

On December 4, 2001, the application was deposited, identifying Gregory J. Wilson, John M. Penderson, and Steve L. Eudy as joint inventors. The application was deposited without an executed oath or declaration. On December 26, 2001, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration, a surcharge of $130.00, and substitute drawings were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

The original petition was filed on July 26, 2001, and was dismissed via a decision mailed on September 3, 2002, for failure to submit an acceptable oath or declaration.

With the Renewed petition, the petitioner has included a supplemental declaration which corrects the previously mentioned deficiency with the declaration, as well as a two-month extension of time to make timely this reply. It is noted that the address for inventor Eudy which appears on the declaration differs from that which was submitted on original petition.

As such, 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1700 for further processing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

United States Patent and Trademark Office

John M. Pedersen
789 Lost Creek Drive
PO Box 151
Kalispell, Montana 59901

In re Application of
Gregory J. Wilson, John M. Penderson, and Steve L. Eudy
Application No. 10/008,636
Filed: December 4, 2001
Attorney Docket No. 29195.8172US
Title: CONTACT ASSEMBLIES, METHODS FOR MAKING CONTACT ASSEMBLIES, AND MACHINES WITH CONTACT ASSEMBLIES FOR ELECTROCHEMICAL PROCESSING OF MICROELECTRONIC WORKPIECES

LETTER

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OFFICE OF PETITIONS

Dear Mr. Pedersen:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

PERKINS COIE LLP
PATENT-SEA ,
P.O. BOX 1247
SEATTLE WA 98111-1247

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Paper 8

David B. Ritchie
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

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OFFICE OF PETITIONS

In re Application of :
Thomas O'Neill :
Application No.10/008,638 : DECISION ON PETITION
Filed: December 4, 2001 :
Attorney Docket No. SUN-P5851 :

This is a decision on the petition under 37 CFR §1.137(b), filed June 12, 2003, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to file Corrected Application Papers which was mailed on January 7, 2002. The Notice to file Corrected Application Papers set a two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 8, 2002. This decision precedes the mailing of a Notice of Abandonment.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the substitute drawings submitted with the instant petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20231
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Paper No. 7

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WELSH & KATZ
120 SOUTH RIVERSIDE PLAZA
22 FLOOR
CHICAGO IL 60606

In re Application of: :
Johnston et al. : DECISION
Application No. 10/008,671 : ON PETITION
Filed: December 7, 2001 :
For: **CARBON MONOXIDE AND SMOKE DETECTION APPARATUS** :

This is a decision on the Petition filed May 6, 2003, which is being treated under 37 C.F.R. § 1.8 to withdraw the holding of abandonment.

A Notice of Abandonment was mailed April 21, 2003 for failure to timely respond to the Office action mailed September 19, 2002.

Petitioner alleges to have timely submitted a response to the Office action. In support, the Petitioner has included a copy of the response with a Certificate of Mailing dated December 11, 2002.

Pursuant to 37 CFR 1.8(b), a 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 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 Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition complies with the requirements set forth in 37 C.F.R. § 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file is being forwarded to the technical support staff for entry of the response. Thereafter, it will be forwarded to the Examiner for further examination.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BEYER WEAVER & THOMAS, LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of :
Paulsen et al. :
Application No. 10/008,748 : DECISION ON PETITION
Filed: 12/06/2001 :
Attorney Docket No: IGT1P339/P-659 :

This is a decision on the "PETITION TO GIVE 'RESCISSION OF NON-PUBLICATION REQUEST' A FILING DATE OF FEBRUARY 20, 2002," filed March 21, 2006, which is being treated as a petition under 37 CFR 1.181.

Applicant requests that the Office verify that applicant filed the Request to Rescind Previous Non-Publication Request Under 35 U.S.C. § 122(b)(2)(B)(ii) ("Request to Rescind") on February 20, 2002, as evidenced by the copy of the returned, date-stamped postcard receipt accompanying the petition. Applicant states that the originally filed Request to Rescind was not matched with the application upon receipt in the Office on February 20, 2002. Consequently, on February 27, 2006, applicant filed a "COMMUNICATION RESCINDING OF NON-PUBLICATION REQUEST," which included a copy of the previously filed Request to Rescind, and a copy of the returned postcard with a USPTO date-stamp of February 20, 2006. Thereafter, the Office mailed applicant a Communication Regarding Rescission of Non-Publication Request.

Applicant states that the PAIR Transaction History shows that the Office received the Request to Rescind on February 27, 2006, instead of February 20, 2006. Furthermore, applicant is concerned that the receipt date of February 27, 2006, indicated in PAIR might give the mistaken impression that the Request to Rescind was not filed until that date. Applicant indicates that applicant made foreign filings, claiming priority to this application, after the Request to Rescind was filed February 20, 2006.

As applicant indicates in the petition, the Office has not held the application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, the Office obviously accepted the copy of the original Request to Rescind and the returned, date-stamped postcard receipt as evidence that the Request to Rescind was filed on February 20, 2006, rather than February 27, 2006. It is not the policy of the Office to correct such information in PAIR because it is reflected in the record in the correspondence received and mailed by the USPTO.

Accordingly, applicant's request to correct the receipt date of the Request to Rescind in PAIR is unnecessary, and therefore, is **dismissed** as moot.

A review of the record will reveal to the public that the Request to Rescind was filed on February 20, 2006.

Any inquiries concerning this decision may 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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

JAN 2 9 2004

OFFICE OF PETITIONS

In re Application of :
Nikiforos Kollias, et al. :
Application No. 10/008,753 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. J&J-2068 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed January 16, 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 18, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 9

CATHRYN CAMPBELL
MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE
SUITE 700
SAN DIEGO, CA 92122

COPY MAILED

APR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Kuhrts, Eric Hauser
Application No. 10/008,778
Filed: November 13, 2001
Attorney Docket No. 68911-076

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 30, 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 March 13, 2003, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 14, 2003. A Notice of Abandonment was mailed on November 28, 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 the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Notice of Acceptance of Power of Attorney

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

COPY MAILED
APR 24 2006
OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Pavlidis et al.	:	
Application No. 10/008,786	:	
Filed: November 13, 2001	:	
Atty Docket No.:	:	
H0002443-02	:	

This is a decision on the Petition Under 37 CFR §1.181 to Revoke Notice of Abandonment Erroneously sent in Error by USPTO, filed November 16, 2005.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed July 29, 2003. The notices set a non-extendable three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on October 30, 2003. A Notice of Abandonment was mailed on December 19, 2003.

Applicant asserts that a timely reply to the Notice, drawings, was filed in the Office on August 23, 2003. In support of this assertion, applicant files copies of drawings and a Transmittal Letter that includes a Certificate of Mailing under 37 CFR 1.8 certifying that drawings were deposited U.S. mail on August 26, 2003.

A review of Office records reveal that this Office received the drawings on August 29, 2003.

In view of the foregoing, Notice of Abandonment is hereby vacated, and the holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

Office records reveal that the issue and publication fees were filed on October 29, 2003.

The application file is being forwarded 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/25/2005

TO SPE OF : ART UNIT 2600 (2653)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,845,080

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.

***Should the references be added, see IDS 9/13/2004**

Ernest C. White, LIE305-8339
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

William Korzuch
SPE

2653
Art Unit

10/008812

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/9/04

Paper No.: _____

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction on Patent No.: 6726764 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Nadine Norton 1765 Nadine Norton — **SPE**

1765 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

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NOV 07 2006
OFFICE OF PETITIONS

In re Application of :
Addis, et al. :
Application No. 10/008,818 : ON PETITION
Filed: November 13, 2001 :
Attorney Docket No. 87839WRZ :
For: DIGITAL IMAGE OPTIMIZATION
INCORPORATING EVALUATION

This is a decision on the petition filed September 21, 2006 (certificate of mailing date September 18, 2006) under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed December 16, 2005, which set a non-extendable period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on March 17, 2006. A Notice of Abandonment was mailed on April 24, 2006.

The Office received a valid Associate Power of Attorney containing a change of correspondence address on March 1, 2004. Unfortunately, the Office associated the correspondence with an incorrect application file until October 6, 2005, and even after associating the correspondence with the correct application file, did not enter the information found in the correspondence. This error resulted in the Notice of Allowance and Fee(s) Due and the Notice of Allowability being mailed to the previous correspondence address of record.

Petitioners have demonstrated that the correspondence at issue was not received at the correspondence address specified in the March 1, 2004 Associate Power of Attorney.

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]

Petitioners have submitted a copy of the docket record where the requirements would have been entered had the December 15, 2005 Notices been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file jacket and docket records for the December 15, 2005 Notices was fruitless.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2625 for the re-mailing of the December 16, 2005 Notice of Allowance and Fee(s) Due and the Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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10142005

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

OCT 1 8 2005

In re Application of	)	
Jun F. Zheng	)	**NOTIFICATION OF**
Application No. 10/008,922	)	**IDENTIFICATION OF PRIOR**
Filed: December 7, 2001		
US Publication No. 20030108294	)	**ART IN LATE PROTEST UNDER 37**
Published: June 12, 2003		
For: 1XN Fanout Waveguide Photodetector	)	**C.F.R. § 1.291(a)**
	)	

The protest filed June 14, 2004 under 37 CFR 1.291 was filed after the June 12, 2003 publication date of the application.

Because the protest was filed after publication of the application, it is untimely and it is not being entered in the application file. The protest is enclosed with this letter in accordance with MPEP § 1901.06, Protest Filed After Allowance Or The Publication Of The Application.

If appropriate, Applicant may wish to consider submitting prior art from the protest pursuant to 37 C.F.R. §1.97 and 37 C.F.R. §1.56 during the prosecution of the application.

Any inquiry regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Enc: "Protest"

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,735,013	2004-05-11	10/008,926	2001-12-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Peter L. Holmes/	Date (YYYY-MM-DD)	2009-07-08
Name	Peter L. Holmes	Registration Number	37353

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. 6735013
Issue Date: May 11,2004
Application No. 10008926
Filed: December 5,2001
Attorney Docket No. PW-4

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 8,2009 ,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 8,2009 . 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
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Paper No. 13

RATNER AND PRESTIA
ONE WESTLAKIES, BERWYN, SUITE 301
P.O. BOX 980
VALLEY FORGE PA 19482-0980

COPY MAILED

DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of
Masaru Watanabe et al
Application No. 10/008,945
Filed: November 7, 2001
Attorney Docket No. MTS-3285

ON PETITION

This is a decision on the petition, filed December 2, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 28, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 1742 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

MTS-3285US **SPECIAL PROCEDURES SUBMISSION** PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
DEC 0 8 2003

Appln. No:	10/008,945
Applicant:	Masaru Watanabe et al.
Filed:	November 7, 2001
Title:	METHOD OF PRODUCING ELECTRODES FOR BATTERY
TC/A.U.:	1742
Examiner:	Daniel J. Jenkins
Confirmation No.:	4814
Issue Fee Paid:	October 23, 2003
Issue Date:	Not Assigned/Posted

PETITION TO WITHDRAW APPLICATION FROM ISSUE 37 C.F.R. § 1.313(c)(2)

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants hereby petition, pursuant to 37 C.F.R. § 1.313(c)(2), to withdraw the above-identified application from issue.

The issue fee for this application was paid on October 23, 2003. The issue date has not yet been assigned/posted.

The reason for this request for withdrawal from issue is for consideration of a Request for Continued Examination enclosing an Information Disclosure Statement which is being filed on the same date as this Petition. The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

Respectfully submitted,

Allan Ratner, Reg. No. 19,717
Attorney for Applicants

AR/fp

Dated: December 2, 2003

Enclosures: RCE and Information Disclosure Statement

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office: Fax No. (703) 872-9306 on the date shown below.

December 2, 2003 Fran Petrillo

FP_I:\MTS\3285US\PETITIONWITHDRAWAL.DOC

BEST AVAILABLE COPY

12/19/2003 BHARRIS1 00000005 180350 10008945
Sale Ref: 00000005 DA#: 180350 10008945
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Franklin Zhigang Zhang
4717 Spencer Street
Torrance CA 90503

In re Application of
Franklin ZhiGang Zhang
Application No. 10/008,948
Filed: December 6, 2001
For: **MULTI-CHANNEL REDUNDANT WIRELESS NETWORK LINK AND DEVICE**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Abandonment filed July 18, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed August 26, 2004. A Notice of Abandonment was mailed July 15, 2005.

Petitioner alleges to have timely filed a response to said Office communication on February 21, 2005. In support thereof, Petitioner provided evidence in the way of a copy of the response filed February 21, 2005 via Express Mail, including proof of receipt at the US Patent and Trademark Office (PTO) of the amendment on February 23, 2005.

A review of the file records reveals that the original amendment has been located and matched with the file. It should be noted that the original response was date-stamped as received by the PTO on February 22, 2005.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the February 22, 2005 response. From there, the file will be forwarded to the examiner for further action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARGARET B. KELLEY
CLIFFORD CHANCE US LLP
200 PARK AVENUE
NEW YORK, NY 10166-0153

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MAR 0 3 2004

OFFICE OF PETITIONS

NOTICE

In re Application of
James R. Smith et al
Application No. 10/008,960
Filed: December 7, 2001
Attorney Docket No. 3634-025

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1647.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

TERADYNE INC.
30801 AGOURA ROAD
AGOURA HILLS, CA 91301

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MAY 20 2004
OFFICE OF PETITIONS

In re Application of :
Gage, et al. :
Application No. 10/008,967 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 1466-US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 24, 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 25, 2002. A Notice of Abandonment was mailed on December 9, 2003.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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)
6,574,969	2003-06-10	10/008,972	2001-12-06	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rudolf o. siegesmund/	Date (YYYY-MM-DD)	2007-11-15
Name	Rudolf O. Siegesmund	Registration Number	37720

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6574969
Issue Date: June 10,2003
Application No. 10008972
Filed: December 6,2001
Attorney Docket No. 011102

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 15,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 15,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

MACMILLAN SOBANSKI & TODD, LC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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APR 0 9 2002

OFFICE OF PETITIONS

In re Application of :
Kovacik, et al. :
Application No. 10/008,975 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No.: 15709 US :
For: QUADRUPLE LAMP UTILITY LIGHT :

This decision is in response to the petition under 37 CFR 1.10(c), filed February 12, 2002, requesting that the above-identified application be accorded a filing date of November 7, 2001 instead of November 8, 2001.

Petitioner alleges that the application was deposited in Express Mail service on November 7, 2001. Petitioner has provided evidence to this effect, including a copy of an "Express Mail Post Office to Addressee" mailing label bearing tracking number EL684695080US (the same Express Mail number found on the transmittal letter accompanying the original application papers located in the official file) and a USPS website Track/Confirm report. The "date-in" on the "Express Mail Post Office to Addressee" label appears to have been altered, however, a search of the USPTO Express Mail database confirms that the above-referenced Express Mail label number was accepted by the USPS on November 7, 2001.

In view of the above, the petition under 37 CFR 1.10(c) is **GRANTED**.

No fee is due in connection with this matter.

This application is being forwarded to the Official of Initial Patent Examination for correction of the filing date to November 7, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/3/2007

TO SPE OF : ART UNIT 3700 (3739)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,858,026

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file ***(PFW)**, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter changes to claims 4 & 5 as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

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_____ _____
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/16/06

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/009008** Patent No.: **6878721**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

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_____

SPE 1624 **Art Unit**

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CANCELLED

GREGORY C. HOUGHTON
NOVARTIS CORPORATE
INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER NJ 07936-1080

In re Patent No. 6,878,721 :
Applicant CUENOUD, et al :
Application No. 10/009,008 : DECISION ON APPLICATION
Filed: January 8, 2002 : FOR
Atty Docket No. 4-30970A : PATENT TERM ADJUSTMENT
:

This is a decision on the "Request for Reconsideration of "Final" Patent Term Adjustment under 37 CFR 1.705(d)" filed May 24, 2005. Patentees request that the patent term adjustment indicated on the face of the Letters Patent be corrected from ninety-four (94) days to one hundred thirty (130) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one hundred thirty (130) days.

On April 12, 2005, the above-identified application matured into U.S. Patent No. 6,878,721, with a revised patent term adjustment of 94 days. The instant request for reconsideration filed on May 24, 2005 was timely filed within 2 months of the date the patent issued. See §1.705(d).

Patentees assert that the period of adjustment for failure to issue a patent within three years under 37 C.F.R. 1.702(b) was incorrectly calculated at 94 days using the 35 U.S.C. 371 fulfillment date of the international application instead of the 130 days using the 35 U.S.C. 371(b) national stage commencement date of the international application.

Patentees' contention is well taken. A review of the file record indicates that the three year failure to issue a patent calculation pursuant to 37 C.F.R. 1.702(b) should have used the 35 U.S.C. 371(b) national stage commencement date of December 3, 2001 which would result in an adjustment of 130 days for examination delay.

In view thereof, the patent term adjustment indicated on the patent should be one hundred thirty (130) 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 one hundred thirty (130) days.

Telephone inquiries specific to this matter should be directed to Amelia Au at (571) 272-7414.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,878,721 B1

DATED : April 12, 2005

INVENTOR(S) : Cuenoud 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 94 days.

Delete the phrase "by 94 days" and insert – by 130 days--

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JUL 25 2006

OFFICE OF PETITIONS

Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080

In re Application of :
Brain et al. :
Application No. 10/009,009 : DECISION GRANTING PETITION
Patent No. 6,958,331 :
Filed: December 20, 2001 :
Attorney Docket No 4-30972A

This decision is in response to Applicants' "PETITION UNDER 37 CFR 1.705(D) FOR PATENT TERM ADJUSTMENT" filed on December 21, 2005 requesting that the Patent Term Adjustment be adjusted from a determination of 210 days to a determination of three hundred and thirty (330) days.

Applicants' petition is **GRANTED**. The Office will *sua sponte* issue a certificate of correction reflecting an adjustment of 330 days rather than the 210 day amount printed on the front of the patent. The Office will also adjust the PTA calculation reflected in PAIR to reflect this decision.

Applicants argue that the Office erred in asserting an applicant delay of one hundred and twenty (120) days for the response to the USPTO's telephonic call requesting that applicants submit a copy of two pages of the specification that had been previously filed. Applicants assert that the purpose of the paper submission was a response to a telephonic request from the USPTO to provide a legible copy of what had been submitted previously. Accordingly, applicants assert that the Office erred in assessing a delay of 120 days for the specification submission.

Applicants' argument are deemed persuasive. The USPTO notes that applicants were merely filing a courtesy copy of what had previously been submitted prior to the mailing of the notice of allowance. Accordingly, the submission of the two pages of the specification shall not be deemed to be a failure to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(10). Overall, the Office engage in reasonable efforts to conclude prosecution of the application by a period of three hundred and eighty-nine (389) days under 37 CFR 1.702(a)(1) and (a)(4). Applicants' delayed fifty-nine (59) days under 37 CFR 1.704(b). Applicant did not fail to engage under 1.704(c)(10). Overall, the correct amount of PTA at the time of the issuance of the application is 330 (389-59=330) days.

After review of this decision, this application will be forwarded to the certificate of correction branch for a prompt issuance of a certificate of correction.

Application No. 10/009,009

The Office acknowledges the receipt of $200.00 for the application for patent term adjustment (petition). No additional fees are required by the Office.

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 A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted Pair Calculation
Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,958,331 B1

DATED : Octo. 25, 2005

INVENTOR(S) : Brain 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 (210) days

Delete the phrase "by 210 days" and insert – by 330 days--

13 JAN 2005

#6

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Docket Administrator
Lucent Technologies
Room 3J-219
101 Crawfords Corner Rd.
Holmdel NJ 07733-3030

In re Application of	:	
CASATI et al.	:	
Application No.: 10/009,019	:	DECISION
PCT No.: PCT/GB00/01486	:	
Int. Filing Date: 18 April 2000	:	
Priority Date: 08 June 1999	:	
Attorney's Docket No.: Casati 1-1-1	:	
For: MOBILE IP DEPLOYMENT	:	

This decision is in response to applicant's "PETITION TO VACATE ABANDONMENT" filed in the United States Patent and Trademark Office (USPTO) on 05 May 2003.

BACKGROUND

On 18 April 2000, applicant filed international application PCT/GB00/01486, which designated the United States and claimed a priority date of 08 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 September 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2001 (08 December 2001 being a Saturday).

On 05 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 18 March 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 15 November 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to timely respond to the Notification mailed 18 March 2002.

On 05 May 2003, applicants filed the instant "PETITION TO VACATE ABANDONMENT".

DISCUSSION

Applicants' petition indicates that a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 18 March 2002 was filed on 15 May 2002. The petition under 37 CFR 1.181 in effect requests that the USPTO consider the copy of the response filed with the petition as having been filed in the USPTO on 15 May 2002. The original response has now been matched with the application file. Accordingly, the NOTICFICATION OF ABANDONMENT mailed 15 November 2002 is hereby VACATED and the petition under 37 CFR 1.181 is MOOT.

The original response includes a Certificate of Mailing certifying that the correspondence was deposited with the United States Postal Service on 15 May 2002. However, the USPTO date stamp on the correspondence is 03 January 2003. Nevertheless, the correspondence is considered as timely filed.

The declaration of inventors filed 03 January 2003 is not in compliance with 37 CFR 1.497(a)-(b). The declaration includes pages 1-2, a first page 3 signed by inventor Sudeep Kumar Palat and a second page 3 signed by Hatef Yamini (On this second page 3, the page number "3" has been whited out and the number "4" is handwritten in blue ink over the whiteout.) This suggests that all pages of the declaration were not present at the time of execution for each inventor, thus rendering the execution improper. A copy of the entire declaration submitted to applicant(s) for signing must be provided. Each executed declaration must identify all of the inventors and the citizenship of all of the inventors. Also, each submitted declaration must be complete, even if executed by only one of the inventors.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** as **MOOT**.

For the reasons set forth above, the NOTIFICATION OF ABANDONMENT mailed 15 November 2002 is VACATED.

Since the reply filed 03 January 2003 appears to have been bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this

notice, whichever is longer, within which to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b). Extensions of this time period may be granted under 37 CFR 1.136(a).

Failure to timely file a proper response will result in **abandonment** of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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COMMISSIONER FOR PATENTS
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Docket Administrator
Lucent Technologies
Room 3J-219
101 Crawfords Corner Rd.
Holmdel NJ 07733-3030

In re Application of	:	
CASATI et al.	:	
Application No.: 10/009,019	:	DECISION
PCT No.: PCT/GB00/01486	:	
Int. Filing Date: 18 April 2000	:	
Priority Date: 08 June 1999	:	
Attorney's Docket No.: Casati 1-1-1	:	
For: MOBILE IP DEPLOYMENT	:	

This decision is in response to applicants' submission filed in the United States Patent and Trademark Office (USPTO) on 24 January 2005.

BACKGROUND

On 18 April 2000, applicant filed international application PCT/GB00/01486, which designated the United States and claimed a priority date of 08 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 December 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 September 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2001 (08 December 2001 being a Saturday).

On 05 December 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 18 March 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (FORM PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b) was required.

On 15 November 2002, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for

failure to timely respond to the Notification mailed 18 March 2002.

On 05 May 2003, applicants filed a "PETITION TO VACATE ABANDONMENT".

On 13 January 2005, a decision was mailed vacating the NOTIFICATION OF ABANDONMENT mailed 15 November 2002. The decision also indicated that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 24 January 2005, applicants filed the instant submission which was accompanied by two declarations of inventors.

DISCUSSION

The two declarations of inventors filed 24 January 2005 are not in compliance with 37 CFR 1.497(a)-(b) since they fail to adequately identify the specification which is being executed. MPEP § 602, item "VI. Identification of Application", sets forth the combinations of information supplied in an oath or declaration filed after the filing date of the application which are acceptable as minimums for identifying a specification. The declarations filed 24 January 2005 identify the specification being executed as being "attached hereto". However, no specification is attached to either of the declarations. Attention is also directed to MPEP § 602.01 which states that the "wording of an oath or declaration cannot be amended, altered or changed in any manner after it has been signed."

CONCLUSION

Applicant is required to file a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) within a time limit of ONE MONTH from the date of this decision or within the time remaining in the response set forth in the Decision mailed 13 January 2005, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Decision mailed 13 January 2005 may be extended under 37 CFR 1.136(a).

Failure to timely file a proper response will result in **abandonment** of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Daniel Stemmer
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty

Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

20 JUN 2002
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Sierra Patent Group Ltd.
P.O. Box 6149
Stateline, NV 89449

In re Application of	:	
Sanberg et al.	:	
Application No.: 10/009,036	:	DECISION
PCT No.: PCT/US00/06912	:	
Int. Filing Date: 16 March 2000	:	ON
Priority Date: 27 April 1999	:	
Attorney's Docket No.: LAY-014US	:	PETITION
For: Cell Therapy For Chronic Stroke	:	

This is a decision on the "Petition To Withdraw Notification of Abandonment" filed on 10 May 2002.

BACKGROUND

Applicants filed this international application on 16 March 2000, and claimed an earliest priority date of 27 April 1999. The United States was designated. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the thirty-month time period to pay the basic national fee in the United States expired as of midnight on 29 October 2001 (since 27 October 2001 was a Saturday).

On 29 October 2001, applicants filed, *inter alia*, the required basic national fee..

On 22 December 2000, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this application had become abandoned with respect to the United States for failure to timely respond to the Notification of Missing Requirements mailed on 21 September 1999.

On 17 April 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States because "Applicant has failed to provide the Copy of the International Application by 20 months (37 CFR 1.494(b)(2))."

Applicants filed the instant petition on 10 May 2002.

DISCUSSION

Petitioner urges that the Notification of Abandonment was improper because a copy of the international application was filed on 29 October 2001, and because the USPTO "should also have received a publication copy pursuant to Article 13 of the Patent Cooperation Treaty."

Review of the postcard evidence of record reveals that applicant was not required to submit a copy of the international application under 35 U.S.C. 371(a), although the postcard evidence of record shows that the USPTO acknowledged receipt of a copy on 29 October 2001. As such, the Notification of Abandonment was improper and is hereby **VACATED**.

DECISION

The petition is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the submission of an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Leonard Smith
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PCT Legal Office

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MAR 15 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Rodger H. Rast
11292 Coloma Road
Suite L
Gold River, California 95670

In re Application of	:	
Rodger H. Rast	:	DECISION ON
Application No.: 10/009,041	:	
Filing Date: 08 November 2001	:	PETITION UNDER
Attorney's Docket No.: IDOSE_01	:	
For: System and Method for Providing Temporal Patient Dosing	:	37 CFR 1.137(b)

This is in response to "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 08 November 2001.

Applicants' petition under 37 CFR 1.137(b) filed 08 November 2001 to revive international application PCT/US00/35048 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/US00/35048 became abandoned as to the United States of America at midnight on 22 August 2001 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)). The statement, "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" complies with 37 CFR 1.137(b).

International application PCT/US00/35048 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/009,041.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

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23 JUL 2002
UNITED STATES PATENT AND TRADEMARK OFFICE

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Friedrich Kueffner
342 Madison Avenue
Suite 1921
New York, NY 10173

In re Application of	:	
Moest et al	:	
Application No.: 10/009,061	:	DECISION ON
PCT No.: PCT/EP00/03963	:	
Int. Filing Date: 03 May 2000	:	PETITION UNDER
Priority Date: 06 May 1999	:	
Attorney's Docket No.: RW-119PCT	:	37 CFR 1.137(b)
For: DOSING SPOON FOR MICRO-TABLETS	:	

This is in response to the "Petition To Revive Unintentionally Abandoned Application" filed on 11 April 2002.

BACKGROUND

On 03 May 2000, this international application was filed, claiming an earliest priority date of 06 May 1999.

On 06 October 2000, a Demand electing the United States was filed in this international application Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 06 November 2001. This international application became abandoned with respect to the United States at midnight on 06 November 2001 for failure pay the basic national fee.

On 02 December 1999, applicant filed in the United States Patent and Trademark Office (USPTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371. The transmittal letter was accompanied by the U.S. basic national fee but no executed declaration.

On 15 February 2002, the USPTO mailed applicant Notification of Abandonment (Form PCT/DO/EO/909) indicating the application was abandoned because applicant had failed to provide the copy of the international application by 30 months.

On 02 December 2001, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, accompanied by, *inter alia*, an executed declaration and the petition fee for revival of an unintentionally abandoned application..

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The required fees of $65.00 (the surcharge under 1.492(e) for late filing of the declaration), $ 130.00 (the surcharge under 1.492(f) for an English translation after thirty months) has been charged to Deposit Account No. 11-1835 as authorized in the petition.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **11 April 2002**.

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14 JUN 2004

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Douglas B. Farrow
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In re Application of	
WEINBERGER, Mark T. et al.	
U.S. Application No.: 10/009,080	DECISION ON
PCT No.: PCT/US00/14185	
International Filing Date: 23 May 2000	PETITION
Priority Date: 04 June 1999	
Attorney's Docket No.: 1175PCT	UNDER 37 CFR 1.181
For: WET CUP THROAT SEAL AND BEARING ASSEMBLY	

This is a decision on applicants' "Request For Corrected Filing Receipt," filed in the United States Patent and Trademark Office on 11 July 2002.

BACKGROUND

On 23 May 2000, applicants filed international application PCT/US00/14185, which claimed a priority date of 04 June 1999. A demand for international preliminary examination was timely filed on 16 August 2000. The deadline for entry into the national stage in the United States was 04 December 2001.

On 04 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration executed by two of the three inventors.

On 30 April 2002, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application the date 04 December 2001 under 35 U.S.C. §§371(c)(1), (2) and (4).

On 11 June 2002, applicants submitted a petition to correct the filing receipt to list the three inventors and submitted a single supplemental page of the declaration.

DISCUSSION

As the declaration submitted on 04 December 2001 listed only two inventors, rather than the three listed on the international application, it did not comply with the requirements of 37 CFR 1.497(a)-(b). A declaration in compliance with 37 CFR 1.497(a)-(b) is a requirement to enter national stage in the United States. As discussed, that was not satisfied and a Notification of Acceptance and a filing receipt should not have issued. They are vacated.

Applicants have now supplied a single supplemental page of declaration executed by the third inventor. However, the original declaration did not satisfy 37 CFR 1.497 (a)-(b). Applicants must supply **the full copy of the declaration executed by each inventor**. Applicants may not piece together pages from different declarations to create a composite declaration. If applicants submit all the pages together, the papers must be accompanied by a statement that the supplemental sheet was attached to the declaration when it was executed by the two other inventors.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed 30 April 2002 is **VACATED**.

Applicants must supply an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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27 APR 2005

#6

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In re Application of	
WEINBERGER, Mark T. et al.	
U.S. Application No.: 10/009,080	DECISION ON
PCT No.: PCT/US00/14185	
International Filing Date: 23 May 2000	PETITION
Priority Date: 04 June 1999	
Attorney's Docket No.: 1175PCT	UNDER 37 CFR 1.181
For: WET CUP THROAT SEAL AND BEARING ASSEMBLY	

This is a decision on applicants' "Submission of Missing Part," filed in the United States Patent and Trademark Office on 29 November 2004.

BACKGROUND

On 23 May 2000, applicants filed international application PCT/US00/14185, which claimed a priority date of 04 June 1999. A demand for international preliminary examination was timely filed on 16 August 2000. The deadline for entry into the national stage in the United States was 04 December 2001.

On 04 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration executed by two of the three inventors.

On 30 April 2002, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed giving the application the date 04 December 2001 under 35 U.S.C. §§371(c)(1), (2) and (4).

On 11 June 2002, applicants submitted a petition to correct the filing receipt to list the three inventors and submitted a single supplemental page of the declaration.

On 14 June 2004, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicants' petition without prejudice and vacating the 30 April 2002, Notification of Acceptance.

On 29 November 2004, applicants filed the renewed submission accompanied by a declaration and the fee for a four month extension of time.

DISCUSSION

The 29 November 2004 declaration complies with 37 CFR 1.497(a)-(b).

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **GRANTED**.

The application has an international filing date of 23 May 2000 under 35 U.S.C. §363 and a date of 29 November 2004 under 35 U.S.C. §371(c)(1), (c)(2) and (c)(4). This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision.

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28 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of :
Willem Johannes De Wit :
US Application No.: 10/009,110 : DECISION ON PAPERS
PCT Application No.: PCT/ZA00/00104 : UNDER 37 CFR 1.42
International Filing Date: 06 June 2000 :
Priority Date: 07 June 1999 :
Attorney's Docket No.: 01-1749 :
For: BENEFICIATION OF ZIRCON :

This is a decision on the national stage application papers submitted 15 April 2002 for entry into the national stage in the United States of America. A review of the Declaration reveals that inventor Willem Johannes De Wit is deceased. Applicant's submission of the Declaration taken together with the indication inventor Willem Johannes De Wit is deceased has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 06 June 2000, applicants filed international application PCT/ZA00/00104, which claimed a priority date of 07 June 1999 from application ZA 99/3815. A Demand for international preliminary examination, in which the United States was elected, was timely filed on 13 November 2000. Accordingly, the thirty-month period for meeting the requirements for entry into the national stage expires at midnight on 07 December 2001.

On 07 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the requisite basic filing fee. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau. Applicants did not submit an oath or declaration of the inventors (35 U.S.C. 371(c)(4)).

On 14 February 2002, the United States Designated/Elected Office (USPTO) mailed applicants a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) was required as well as the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)). Applicants were given a TWO (2) MONTH period from

the mail date of the Notification to properly respond, with extensions of time obtainable under 37 CFR 1.136(a).

On 15 April 2002, applicants timely filed a "TRANSMITTAL LETTER" in response to the Notification of Missing Requirements which included a Declaration executed the Legal Representative of Willem Johannes De Wit and the required surcharge of $130.00 under 37 CFR 1.492(e).

DISCUSSION

37 CFR 1.42 states:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

37 CFR 1.497(a)-(c) state:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § § 1.494 or 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration that:

(1) Is executed in accordance with either §§ 1.66 or 1.68;

(2) Identifies the specification to which it is directed;

(3) Identifies each inventor and the country of citizenship of each inventor; and

(4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

(b)

(1) The oath or declaration must be made by all of the actual inventors except as provided for in § § 1.42, 1.43 or 1.47.

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or §1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

© Subject to paragraph (f) of this section, if the oath or declaration meets the

requirements of paragraphs (a) and (b) of this section, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and § § 1.494© or 1.495(c). However, if the oath or declaration does not also meet the requirements of § 1.63, a supplemental oath or declaration in compliance with § 1.63 or an application data sheet will be required in accordance with § 1.67.

The declaration does not satisfy the requirements of 37 CFR 1.497(a)(3), (b)(2), and (c).

Regarding 37 CFR 1.497(b)(2), it is noted that a legal representative has signed the Declaration for the deceased inventor, Willem Johannes De Wet. Furthermore, the representative's residence, citizenship, and post office address has also been completed in the Declaration. However, the signature of the representative as well as the printed information of the representative's residence, citizenship, and post office address are lot legible. It can not be determined as to who is the legal representative. Accordingly, 37 CFR 1.497(b)(2) has not been properly satisfied. Applicant should provide a new declaration which provides the clearly printed name and signature of the legal representative as well as the representative's residence, citizenship, and post office address.

Further, the declaration does not set forth the required information for the deceased inventor.

The declaration filed by applicant does not satisfy 37 CFR 1.63(c)(1) and (c)(2).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**

Applicant is required to submit a declaration in compliance with 37 CFR 1.42 and 1.497 within a time period of TWO (2) MONTHS from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

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Richard Cole
PCT Legal Examiner
PCT Legal Office

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6521764	2003-02-18	10009116	2002-03-05	IVD1136 US PCT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert J. Kajubi/	Date (YYYY-MM-DD)	2007-04-11
Name	Robert KAJUBI	Registration Number	55312

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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P.O. Box 1450
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In re Patent No. 6521764
Issue Date: February 18,2003
Application No. 10009116
Filed: March 5,2002
Attorney Docket No. IND 1136

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 11,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 11,2007 . 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.

16 MAR 2004

#4

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Haviv Toledano
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In re Application of	:
Toledanol.	:
Application No.: 10/009,138	:
Filing Date: 26 November 2001	: DECISION
For: A FLEXIBLE ANNULAR STAPLER FOR CLOSED SURGERY OF HOLLOW ORGANS	:

This decision is before the PCT Legal Office for matters arising under 35 U.S.C. 371.

BACKGROUND

On 17 July 1997, applicant filed international application PCT/IB97/00887 that claimed priority of an earlier United States application which was filed 25 July 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 1998. A Demand for international preliminary examination was timely filed 09 February 1998. Accordingly, the thirtty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 25 January 1999.

On 26 November 2001, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the application, a preliminary amendment and the basic national fee as required by 35 U.S.C. 371(c). These papers were assigned application number 10/009,138.

On 31 January 2003, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) indicating that applicant had met the filing requirements of 35 U.S.C. 371(c).

On 29 April 2002, applicant filed a status request concerning this application.

DISCUSSION

1077 OG 13 indicates:

"The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111...

If there are any conflicting instructions as to which section of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. It is strongly recommended that applicant use the Form PTO-1390 in all cases where a filing under 35 U.S.C. 371 is intended."

In the case of conflicting instructions, the application is to be treated as a filing under 35 U.S.C. 111. In this application, although applicant used the "Transmittal Letter for the United States Designated Office" (Form PTO-1390) as the transmittal letter, applicant also included a preliminary amendment, in which applicant indicates in the opening statement of the remarks that this application was a divisional application of an earlier filed application. Therefore, due to the conflicting instructions, this application should have been treated as a filing under 35 U.S.C. 111.

CONCLUSION

The a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) mailed 31 January 2003 is hereby **VACATED**.

This application is being forwarded to the Office of Initial Patent Examination for processing of this application in accordance with this decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Conferee: Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Carlton et al. :
Application No. 10/009,145 : Decision on Petition for
International Filing Date: May 9, 2000 : Patent Term Extension
Attorney Docket No. PU3657USw :
For: HIGH THROUGHPUT CRYSTAL :
FORM SCREENING WORKSTATION AND
METHOD OF USE

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Request for Reconsideration of Calculation Of Patent Term Adjustment," received on October 25, 2005. In the alternative, the petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181. See 35 U.S.C. § 154(b)[1] and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that Notice of Allowance mailed on July 26, 2005, for the above-identified application did not contain an indication of paten term adjustment. Petitioner asserts that the Notice of Allowance improperly stated that the Patent Term Extension is 0 days. Petitioner asserts that from the heading in the Notice of Allowance the United States Patent and Trademark Office improperly calculated patent term extension under 35 U.S.C. § 154(b), however this application was filed after May 29, 2000 and is thus eligible for the patent term adjustment provisions under 35 U.S.C. § 154(b). Petitioner asserts that that the application is entitled to at least 386 days of patent term adjustment under 35 U.S.C. § 154(b)(1)(B).

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000.

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

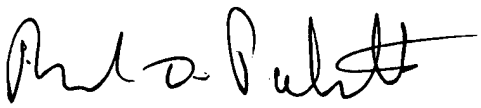
The above-identified application was filed on May 9, 2000, not November 8, 2001, as asserted by Petitioner. The international filing date is the filing date of the application and November 8, 2001, is the date of national stage entry. See MPEP 1893.03(b). Accordingly the application is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000.

In the alternative, pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, the application is not entitled to patent term extension under 37 CFR 1.701, as there was not a successful appeal, interference or a secrecy order. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

After mailing of this decision, the above-identified application will be forwarded to the Office of Publications.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized the required $200 fee for the petition under 37 CFR 1.705(b) has been charged to Petitioner's Deposit Account (07-1392). The petition fee under 37 CFR 1.182 for questions not specifically provided for has not been charged to Petitioner's deposit account.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
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)
6776003	2004-08-17	10009263	2002-03-11	4504-1025

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
◉	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2008-12-23
Name	Benoit Castel	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6776003
Issue Date: August 17,2004
Application No. 10009263
Filed: March 11,2002
Attorney Docket No. 00D936US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

28 JUN 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Gerald H. Kiel
Reed Smith, LLP
375 Park Avenue
New York, NY 10152

In re Application of	:	
JANKA, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/009,287	:	
PCT No.: PCT/EP01/01663	:	UNDER 37 CFR 1.137(b)
Int. Filing Date: 15 February 2001	:	
Priority Date: 22 February 2000	:	
Attorney's Docket No.: GK-ZEI-3140	:	
For: METHOD AND SYSTEM FOR DETECTING THE LIGHT COMING FROM A SAMPLE	:	

This decision is in response to applicant's "Petition to Revive Pursuant to 37 CFR 1.137(b)" filed 06 November 2001 in the United States Patent and Trademark Office (USPTO). The petition fee of $1280.00 has been provided.

BACKGROUND

On 15 February 2001, applicant filed international application PCT/EP01/01663, which claimed priority of an earlier application filed 22 February 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 30 August 2001. A Demand for international preliminary examination, in which the United States was elected, was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 22 October 2001.

On 06 November 2001, applicant filed the present petition.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply is the payment of the Basic National Fee under 37 CFR 1.492(a). Applicant has provided a check covering payment of the fee.

As to Item (2) the appropriate petition fee of $1280.00 as required by 37 CFR 1.17(m) has been authorized to be deducted from Deposit Account No.: 50-1529.

With regard to Item (3), applicant's statement that, "Abandonment was unintentional, the national phase application was overlooked and was not timely filed" is being interpreted to mean 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. If this is an incorrect reading of applicant's statement applicant should contact the PCT Legal Office immediately. Applicant's statement and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

It is noted that the second inventor is listed as Volker JUNGEL in the published international application and Volker JUENGEL on the executed declaration filed 06 November 2001. This raises the question as to whether this discrepancy is the result of a typographical error or a name change. In order to continue processing of the application applicant is required to provide an explanation for this discrepancy. If the discrepancy is the result of a name change, a petition under 37 CFR 1.182 is required. See MPEP 605.04(c) for further requirements.

CONCLUSION

Applicant's petition for revival pursuant to 37 CFR 1.137(b) is **GRANTED**.

As authorized, $260.00 will be deducted from Deposit Account 50-1529. ($130.00 for payment of the surcharge for providing an oath or declaration of the inventors later than twenty months from the earliest claimed priority date and $130.00 as payment of the processing fee for providing an English translation of the International Application later than twenty months from the earliest claimed priority date.)

Applicant is hereby afforded **TWO MONTHS** from the mail date of this decision to furnish the proper reply as indicated above. Failure to file the reply within the time period provided will result in abandonment. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

31 MAY 2005

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Gerald H. Kiel
Reed Smith, LLP
599 Lexington Avenue, 29th Floor
New York, NY 10022

In re Application of :
JANKA, et al. : DECISION ON PETITION
U.S. Application No.: 10/009,287 :
PCT No.: PCT/EP01/01663 : UNDER 37 CFR 1.181
Int. Filing Date: 15 February 2001 :
Priority Date: 22 February 2000 :
Attorney's Docket No.: GK-ZEI-3140 :
For: METHOD AND SYSTEM FOR DETECTING :
THE LIGHT COMING FROM A SAMPLE :

This decision is in response to applicant's papers filed 24 May 2005 which included copies of a "Request to Withdraw Abandonment Notice" originally filed 09 September 2003 and a "Reply to Decision on Petition Under 37 C.F.R. 1.137(b)" originally filed on 12 August 2002. The current filing is being treated as a petition under 37 CFR 1.181 to accept the papers as timely filed and withdraw the holding of abandonment in the present National stage application. No petition fee is required.

BACKGROUND

On 28 June 2002, applicant was mailed a decision granting applicant's petition to revive the present National stage application. In the decision it was noted that there was a question as to the name of the second listed inventor. Applicant was advised that in order to continue processing of the application applicant was required to provide an explanation and afforded two months to reply.

On 29 August 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the decision mailed 28 June 2002 within the time period set therein and that above-identified application was abandoned as to the United States.

On 24 May 2005, applicant filed the present petition under 37 CFR 1.181 requesting withdrawal of the abandonment and enclosed copies of the "Request to Withdraw Abandonment Notice" and "Reply to Decision on Petition Under 37 C.F.R. 1.137(b)" detailed above.

DISCUSSION

A review of the application file finds the original copies of the "Request to Withdraw Abandonment Notice" and "Reply to Decision on Petition Under 37 C.F.R. 1.137(b)" contained therein. As such, it is proper to grant applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment for the present National stage file. As to the merits of the reply, applicant has supplied a statement which addresses the concern raised in the decision mailed 28 June 2002. Thus, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 06 November 2001.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 29 August 2003 is hereby **VACATED**.

This application will be given an international application filing date of 15 February 2001 and a date of **06 November 2001** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459

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LEGAL DEPARTMENT INTELLECTUAL PROPERTY
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Keith P. Heaton, et al.	:	
Application No. 10/009,294	:	DECISION DISMISSING PETITION
Filed: June 6, 2002	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. VAC.704.US	:	

This is a decision on the petition under 37 CFR 1.313(a), filed May 10, 2007, to withdraw the above-identified application from issue.

The petition is **DISMISSED AS MOOT** since this application is now abandoned for failure to timely pay the issue and publication fees on or before June 7, 2007 as required by the Notice of Allowance and Fee(s) Due, mailed March 7, 2007.

Petitioner should note that the mere filing of a petition to withdraw from issue does not stay the period for paying the fees required by the Notice of Allowance and Fee(s) Due. Unless an applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue and publication fees must be timely submitted to avoid abandonment. *Note* MPEP § 1308(I)(A).

In view of the above, the petition to withdraw from issue must be dismissed as involving a moot issue.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application.

Inquiries concerning this decision may be directed to the undersigned at (571) 272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KINETIC CONCEPTS, INC.
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SAN ANTONIO TX 78265-9508

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of :
Keith P. Heaton, et al. :
Application No. 10/009,294 :
Filed: June 6, 2002 :
Attorney Docket No. VAC.704.US :

CORRECTED
DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(a)

This is a decision on the petition under 37 CFR 1.313(a), filed May 10, 2007, requesting that the above-identified application be withdrawn from issue. A Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS) accompanied the present petition.

The petition is dismissed as moot.

Since the RCE was filed within the period set for paying the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed March 7, 2007, prosecution is reopened in the present application and no petition under 37 CFR 1.313 is necessary.

The decision mailed May 16, 2007 is hereby vacated.

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 3772 for processing of the RCE under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 29 2004

OFFICE OF PETITIONS

Browdy and Neimark PLLC
624 9th Street, NW
Washington DC 20001-5303

In re Application of
Warshawsky et al
Application No. 10/009,300
Filed: May 13, 2004
Attorney Docket No. Warshawsky-3

: DECISION DISMISSING PETITION

This decision is in response to applicants' "Application for Patent Term Adjustment filed under 37 CFR 1.705(b)" filed August 20, 2004 requesting that the Office make an adjustment of the patent term at the time of the notice of allowance from 157 days to 317 days. The Office apologizes for any delay in handling this application.

The applicants' Application for Patent Term Adjustment is **Dismissed.** The correct term at the time of the mailing of the notice of allowance is 157 days. The Office notes that any delay in issuing the patent within four months of the payment of the issue fee will be added at the time of the issuance of the patent and will be reflected within the issue notification letter.

Applicants' assert that the patent term determination is incorrect because the Office improperly measured the amount of time accrued under 37 CFR 1.702(a)(1). Patentees assert that the Office failed to consider a preliminary amendment filed prior to the first action (notice of non-final rejection on December 17, 2003) and therefore the clock should have continued to run until the mailing of the notice of allowance on May 25, 2004.

The applicants' arguments are not persuasive. The Office maintains that the non-final rejection mailed on December 17, 2003 is considered an action within the meaning of 35 U.S.C. 132 and therefore the clock properly stopped on December 17, 2003 (on hundred and fifty seven days) after the date of the requirements of 35 U.S.C. 371 were fulfilled.. Although the initial non-final rejection did not address claims 25-33 which were added by preliminary amendment, the mailed office action was sufficient to meet the requirements of 35 U.S.C. 132. The Office notes that the action included a request for further information under 37 CFR 1.105 which the Office has deemed sufficient by itself to be considered an action under 35 U.S.C. 132.

The $200.00 applicant fee has been assessed to this application and no additional fees are required by the Office.

The Office has forwarded this application to the Office of Patent Publication for a prompt issuance of the patent. The Office apologizes for any delay that this application may have caused in the issuance of the patent.

Any additional questions should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Deputy Commissioner
For Patent Examinationn Policy

19 DEC 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Jeffrey S. Melcher
Manelli Dennison & Selter, PLLC
2000 M Street, NW
Washington, DC 20036-3307

In re Application of	:	
LINDQVIST et al.	:	
U.S. Application No. 10/009,302	:	DECISION ON PETITION
PCT No.: PCT/SE00/01049	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 24 May 2000	:	
Priority Date: 15 June 1999	:	
Attorney Docket No.: 627-1446	:	
For: METHOD AND DEVICE FOR BATTERIES	:	

This is a decision on applicant's "Petition under 37 CFR 1.47(b)" filed 13 August 2002 to accept the application without the signature of inventors, Frank Lindqvist and Henrik Lindqvist.

BACKGROUND

On 24 May 2000, applicant filed international application no. PCT/SE00/01049 which claimed a priority date of 15 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 December 2000. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 15 December 2001.

On 07 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 February 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 13 August 2002, applicant filed "Petition under 37 CFR 1.47(b)" and a petition and requisite fee for a four-month extension of time.

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> were never signed and returned by the inventors Frank Lindqvist and Henrik Lindqvist. On July 12, 2002 a second copy of the documents including the oath was sent by registered mail to both inventors Frank Lindqvist and Henrik Lindqvist to be signed by them. These documents have not been returned. Our patent agent, Peter Kylin, has also been in contact by phone with the inventors to try to persuade them of the necessity to sign the documents, however, without success.

The declaration of Ake Holger Johansson fails to state what application papers were sent to the missing inventors. Was a complete application (specification, claims, and drawings) mailed to Frank Lindqvist and Henrik Lindqvist? Additionally, petitioner has provided a copy of a letter to Frank Lindqvist and Henrik Lindqvist, however, these letters have not been translated into English. Furthermore, it does not appear that the Ake Holger Johansson has first hand knowledge of all the facts.

In order to meet the requirements of 37 CFR 1.47(a) and Section 409.03(d) of the MPEP, a statement of facts is needed from a person having first hand knowledge of the facts that a complete copy of the application papers was sent to Frank Lindqvist and Henrik Lindqvist and when such papers were sent and that Frank Lindqvist and Henrik Lindqvist have subsequently refused to execute the application. In addition, copies of documentary evidence such as a certified mail return receipt, cover letter of instruction, telegrams, etc., should be supplied with the declaration.

Regarding item (5), petitioner has not demonstrated that Macbat Aktiebolag has a propriety interest in the invention. The declaration of Lars Ake Holger Johansson states that, "I am the president of Macbat AB...which changed its name from Holgia AB to Macabat AB on October 25, 2001." However, a review of the petition papers reveals that Mr. Johansson's statement and the Certificate of Registration does not establish documentary evidence of a "chain of title" from the original inventor to the assignee, Macbat Aktiebolag. It is unclear whether the assignments executed by Frank Lindqvist and Henrik Lindqvist to Holgia AB have been properly transferred from Holgia AB to Macbat AB and by what legal means. Therefore, further evidence is required to establish that the assignment in fact constitutes an assignment of the instant application to Macbat Aktiebolag. (See 37 CFR 3.73(b)(1)(i)).

For the reasons stated above, it would not be appropriate to accept the application without the signature of Frank Lindqvist and Henrik Lindqvist under 37 CFR 1.47(b) at this time.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover

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DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(h); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of item (1), (3), (4), and (6) above. However, items (2) and (5) have not been satisfied.

Concerning Item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.
>
> When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

A review of the present petition reveals that petitioner has not satisfied item (2) above, in that the applicant has not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Frank Lindqvist and Henrik Lindqvist. The declaration of Lars Ake Holger Johansson states that,

> On April 18, 2002, the oath, power of attorney document was sent via registered mail to Frank Lindqvist for the inventors signature by our patent agency Hynell Patenttjanst AB. However, these documents

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letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Attorney-Advisor
PCT Legal Office
Telephone 703-308-6314
Fax: 703-308-6459

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07 MAY 2003
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Jeffrey S. Melcher
Manelli Dennison & Selter, PLLC
2000 M Street, NW
Washington, DC 20036-3307

In re Application of	:	
LINDQVIST et al.	:	
U.S. Application No. 10/009,302	:	DECISION ON PETITION
PCT No.: PCT/SE00/01049	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 24 May 2000	:	
Priority Date: 15 June 1999	:	
Attorney Docket No.: 627-1446	:	
For: METHOD AND DEVICE FOR BATTERIES	:	

This is a decision on applicant's "Renewed Petition under 37 CFR 1.47(b)" filed 09 April 2003 to accept the application without the signature of inventors, Frank Lindqvist and Henrik Lindqvist.

BACKGROUND

On 24 May 2000, applicant filed international application no. PCT/SE00/01049 which claimed a priority date of 15 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 December 2000. A proper Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. Accordingly, the thirty-month time period for submitting the requisite basic national fee in the United States of America was extended to expire 30 months from the priority date, i.e., 15 December 2001.

On 07 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 14 February 2002, the United Stated Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed. The notification set a two-month time limit in which to respond.

On 13 August 2002, applicant filed "Petition under 37 CFR 1.47(b)" and a petition and requisite fee for a four-month extension of time. The petition was dismissed in a decision dated 19 December 2002.

On 09 April 2003, applicant filed present petition and a two-month extension of time.

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DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the nonsigning inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the nonsigning inventor; (5) proof of proprietary interest in the application; and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages.

A review of the materials submitted with the renewed petition reveals that applicant has now submitted materials which, taken in combination with the previous submission, satisfy all the requirements for a grantable petition under 37 CFR 1.47(b).

CONCLUSION

The renewed petition under 37 CFR 1.47(b) is **GRANTED**.

The application will be given an international filing date of 24 May 2000 under 35 U.S.C. 363, and a date of **13 August 2002** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

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WESTFIELD NJ 07090

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OFFICE OF PETITIONS

In re Application of	:	
Yoichiro Sako et al	:	
Application No. 10/009,331	:	DECISION GRANTING PETITION
Filed: November 6, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SONYJP 3.3-758	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 15, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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WASHINGTON, DC 20037

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OFFICE OF PETITIONS

In re Patent No. 6,716,613	:	
Issued: April 6, 2004	:	
Application No. 10/009,332	:	ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. Q67541	:	

This is a decision on the petition under 37 CFR 1.182, filed October 5, 2006, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Petitioner states that a $130.00 check was included with the instant petition. However, the USPTO finance department was unable to locate it. Further, the petition fee is $400.00, rather than $130.00. Accordingly, the $400.00 petition fee will be charged to petitioner's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8C41 (FAX 571-273-9756)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

Paper No.: .....

DATE : 07-22-08

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/009347** Patent No.: **7279318**

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.

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:

/ Christopher S. F. Low /
Supervisory Patent Examiner, Art Unit 1636

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OFFICE OF PETITIONS

In re Application of :
Stefan Frits Brouwer :
Application No. 10/009,358 :
Filed: May 28, 2002 :
Attorney Docket No. 99-IKU-931

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 4, 2004, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C § 704.

The above-identified application became abandoned for failure to reply to the *Ex Parte Quayle* Office action mailed August 13, 2003, which set a period for reply of one (1) month from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) were available. A response was not received within the allowed period, and the application became abandoned on October 14, 2003. A Notice of Abandonment was mailed on September 23, 2004.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]
The general question asked by the Office is: "Did petitioner act as a reasonable and prudent

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that a reply was filed via facsimile on August 13, 2003, but was inadvertently not signed on behalf of the applicant.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

It appears that petitioner believes that the examiner did not accept the reply allegedly filed August 13, 2003, because the amendment was not signed. Petitioner should note, however, that there is no record of the Office's receipt of the reply allegedly filed August 13, 2003. It is further noted that the examiner indicated on the Notice of Abandonment that no response was received to the Office action mailed August 13, 2003, not that the response received August 13, 2003, was inadequate. Accordingly, the argument made by petitioner is inadequate as it does not seek to establish that the reply of August 13, 2003, was received by the Office, but assumes that the response was received and rejected because it was not signed. Any renewed petition file must address the issue of the non-receipt a reply to the August 13, 2003, Office action and provide evidence of the Office's receipt of the reply on August 13, 2003, pursuant to 37 CFR 1.8 or 1.10.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional

Further correspondence with respect to this matter should be addressed as follows:

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[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

The petition fee of $500.00 will be charged to deposit account 05-0275.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-0025
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of

Stefan Frits Brouwer

Application No. 10/009,358

Filed: May 28, 2002

Attorney Docket No. 99-IKU-931

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the *Ex Parte Quayle* action mailed August 13, 2003, which set a shortened statutory period for reply of one (1) month from its mailing date. A proper response to action was not received within the allowable period. Accordingly, the application became abandoned on September 14, 2003. A Notice of Abandonment was mailed on September 23, 2004. A petition under 37 CFR 1.137(a) was filed on October 4, 2004, and dismissed by a decision mailed January 19, 2005. The decision allowed for a renewed petition or a petition under 37 CFR 1.137(b) to be filed within two months from the mailing date of the decision.

The amendment filed February 11, 2005, is noted.

The application is being forwarded to Technology Center 2800, GAU 2872 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

18 DEC 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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William J. Hone
FISH & RICHARDSON
45 Rockefeller Plaza, Suite 2800
New York, N.Y. 10111

In re Application of: GENNARO, Maria, et al.	:	
U.S. Application No.: 10/009,384	:	
PCT No.: PCT/US00/12197	:	
International Filing Date: 04 May 2000	:	DECISION ON PETITION
Priority Date: 04 May 1999	:	UNDER 37 CFR 1.47(a)
Attorney's Docket No.: 07763-0420011	:	
For: SECRETED PROTEINS OF *MYCOBACTERIUM TUBERCULOSIS* AND THEIR USE AS VACCINES AND DIAGNOSTIC REAGENTS	:	

This decision is issued in response to applicant's "Petition Under 37 CFR 1.47(b)" filed on 20 August 2002, treated herein as a petition under 37 CFR 1.47(a). Applicant's have paid the required petition fee.

BACKGROUND

On 04 May 2000, applicants filed international application PCT/US00/12197 which claimed a priority date of 04 May 1999 and which designated the United States.

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was thirty months from the priority date, i.e., 04 November 2001.

On 02 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of $50 as the small entity basic national fee.[1]

On 20 February 2002, the DO/EO/US mailed a Notification Of Missing Requirements indicating that an executed declaration, the $65 surcharge for filing the declaration later than thirty months after the priority date, and sequence listing materials.

---

[1] The $50 small entity basic national fee is applicable only where a national stage is filed after an International Preliminary Examination Report (IPER) accepting all claims under PCT Article 33 has been issued. Here, the IPER had not been issued at the time the national stage papers were filed. The proper basic national fee was therefore $355. Deposit Account No. 06-1050 will be charged the $305 needed to bring the total fee payment to the required amount.

On 20 August 2002, applicants filed a response to the Notification Of Missing Requirements including the required surcharge payment, a partially executed declaration, the petition under 37 CFR 1.47 considered herein (seeking acceptance of the application without the signature of nonsigning inventor Manuel J. Gomez, whom applicants assert cannot be located after diligent effort), sequence listing materials, and the fee for a four month extension of time to respond.

On 25 September 2003, the DO/EO/US mailed a Notification Of A Defective Response indicating that additional sequence listing materials were required.

On 14 October 2003, applicants filed a response to the Notification Of A Defective response.

DISCUSSION

In order for the application to be accepted without the signature of the nonsigning inventor, applicants must submit a grantable petition under 37 CFR 1.47(a).[2] A grantable petition under 37 CFR 1.47(a) must be accompanied by: (1) the proper petition fee, (2) a statement of the last known address of the inventor; (3) an oath or declaration executed by the other inventors on their own behalf and on behalf of the non-signing inventor; and (4) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

The petition included the $130 petition fee, and it sets forth the last known address of the nonsigning inventor. Items (1) and (2) are therefore satisfied.

With respect to item (3), applicants section 409.03(a) of the Manual of Patent Examining Procedure ("MPEP") states that:

> An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

Here, applicants have submitted a declaration containing an unexecuted signature block for the nonsigning inventor and executed by the other inventor. Item (3) is therefore satisfied.

Regarding item (4), the proof required to show that a nonsigning inventor cannot be reached after diligent effort is set forth in section 409.03(d) of the MPEP, which states:

---

[2] The petition refers to 37 CFR 1.47(b); however, in a situation where, as here, at least one of the inventors has signed the declaration, 37 CFR 1.47(a) is the applicable provision.

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> ...
>
> The statement 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. Copies of documentary evidence such as internet searches, certified mail, return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

Here, the petition states that "repeated efforts" to locate the nonsigning inventor were unsuccessful. The petition includes a declaration by the signing inventor Maria Laura Gennaro in which Dr. Gennaro discusses the attempts to locate the nonsigning inventor, Dr. Gomez. The declaration states that Dr Gomez returned to Spain, leaving no forwarding address with Dr. Gennaro or her colleague with whom Dr. Gomez had also worked, and that emails sent to an email address left by Dr. Gomez went unanswered, as did an email addressed to Dr. Gomez' wife. The petition does not set forth in detail any further attempts made to locate the inventor (i.e., internet searches, etc.). Nor is there any evidence that any correspondence was mailed to the inventor's last known address (which would demonstrate if Dr. Gomez left a forwarding address with the post office). Before it can be concluded that the nonsigning inventor cannot be reached after diligent effort, applicants must provide a firsthand statement regarding further efforts made to locate the nonsigning inventor. Accordingly, item (4) is not satisfied.

Based on the foregoing, applicants have not satisfied all the requirements for a grantable petition under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)" and should include an adequate, firsthand statement setting forth the further efforts made by applicants to locate the nonsigning inventor, as discussed above.

No additional petition fee is required. Failure to file a timely response will result in abandonment of the application.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
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23 FEB 2004

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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William J. Hone
FISH & RICHARDSON
45 Rockefeller Plaza, Suite 2800
New York, N.Y. 10111

In re Application of: GENNARO, Maria, et al.	:	
U.S. Application No.: 10/009,384	:	
PCT No.: PCT/US00/12197	:	
International Filing Date: 04 May 2000	:	DECISION ON RENEWED
Priority Date: 04 May 1999	:	PETITION UNDER 37 CFR
Attorney's Docket No.: 07763-0420011	:	1.47(a) AND FEE REFUND
For: SECRETED PROTEINS OF *MYCOBACTERIUM*	:	REQUEST
TUBERCULOSIS AND THEIR USE AS	:	
VACCINES AND DIAGNOSTIC REAGENTS	:	

This decision is issued in response to applicants' "Response To Decision On Petition Under 37 CFR 1.47(a)" filed 26 January 2004. No petition fee is required.

BACKGROUND

The procedural background for this application is set forth in detail in the decision mailed by this Office on 18 December 2003. In that decision, applicants' petition under 37 CFR 1.47(a) for acceptance of a declaration without the signature of co-inventor Manuel J. Gomez was dismissed without prejudice. Pursuant to the decision, applicant was also charged an additional $305 for the basic national fee (bringing applicants total payment from $50 to $355).

On 04 June 2002, applicant filed the "Response To Decision On Petition" considered herein. The Response included a declaration executed by the previously non-signing inventor Manuel J. Gomez. The Response also includes a request for a refund of the $305 fee charged pursuant to the previous decision, arguing that the $50 basic national fee was appropriate herein.

DISCUSSION

As noted above, the Response was accompanied by a copy of the declaration of inventors executed by Manuel J. Gomez, the non-signing inventor who was the subject of the earlier petition under 37 CFR 1.47. Accordingly, applicants' petition under 37 CFR 1.47 is now moot.

Applicants had earlier submitted copies of the declaration executed by the other co-inventor. Applicants have therefore now submitted a fully executed declaration in compliance with 37 CFR 1.497(a) and (b).

With respect to the the refund request, applicants have enclosed a copy of the IPER issued by the IPEA/US after the filing of the national stage application. The IPER finds that all the claims are acceptable under PCT Article 33. Under these circumstances, applicants refund request is appropriately granted

.

CONCLUSION

Applicants' petition under 37 CFR 1.47 is **MOOT.**

Applicants' refund request is **GRANTED**. Deposit Account No. 06-0150 will be credited with a refund of $305.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 January 2004.

Richard M. Ross
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1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

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NOV 1 2 2004

OFFICE OF PETITIONS

In re Application of

Stork and Kreiner

Application No. 10/009,409

Filed: March 27, 2002

Attorney Docket No. P/4074-4

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), October 4, 2004, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $665.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 3, 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 September 3, 2004.

The issue fee of $665.00 was received on September 29, 2004.

Form PTOL-85B was received on October 4, 2004, and is made of record.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

15 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Shelley P.M. Fussey
Williams, Morgan & Amerson
7676 Hillmont, Suite 250
Houston, TX 77040

In re Application of
ROY, Arun K. et al.
Application No.: 10/009,420
PCT No.: PCT/US00/15243
Int. Filing Date: 02 June 2000
Priority Date: 04 June 1999
Attorney Docket No.: 4003.002300
For: ESTROGEN RECEPTOR SITE-SPECIFIC RIBOZYMES AND USES THEREOF FOR ESTROGEN DEPENDENT TUMORS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' facsimile of 01 August 2002. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/US00/15243. A demand for international preliminary examination was filed 04 January 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 04 December 2001.

On 08 March 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a sequence listing and a computer readable format were required.

On 06 May 2002, applicants submitted, "Response to Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US) Mailed March 08, 2002."

On 01 August 2002, applicants submitted the instant petition accompanied by a postcard receipt that lists a declaration and a disk.

DISCUSSION

MPEP at section 503 states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

The postcard receipt lists, *inter alia*, declarations and disk. The postcard receipt is date stamped and indicated the application number.

The postcard receipt is adequate evidence that the declarations and disk were received on 06 May 2002.

The petition states that the papers are copies of the documents filed with the Patent Office and of the returned postcard receipt. However, applicants have not provided an additional copy of the computer readable format.

Additionally, it is noted that the declaration submitted consists of one page one, three page twos and one page three. It appears that separately executed copies of the declaration have been pieced together to create a composite declaration. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy as executed by the inventor must be furnished to the Office.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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PCT Legal Administration

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10 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shelley P.M. Fussey
Williams, Morgan & Amerson
7676 Hillmont, Suite 250
Houston, TX 77040

In re Application of
ROY, Arun K. et al.
Application No.: 10/009,420
PCT No.: PCT/US00/15243
Int. Filing Date: 02 June 2000
Priority Date: 04 June 1999
Attorney Docket No.: 4003.002300
For: ESTROGEN RECEPTOR SITE-SPECIFIC RIBOZYMES AND USES THEREOF FOR ESTROGEN DEPENDENT TUMORS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' submission of 08 November 2002. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/US00/15243. A demand for international preliminary examination was filed 04 January 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 04 December 2001.

On 08 March 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a sequence listing and a computer readable format were required.

On 06 May 2002, applicants submitted, "Response to Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US) Mailed March 08, 2002."

On 01 August 2002, applicants submitted a petition accompanied by a postcard receipt that lists a declaration and a disk.

On 08 November 2002, applicants submitted a replacement computer readable format.

On 15 January 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, prior to 08 November 2002 submission being matched with the application.

DISCUSSION

MPEP at section 503 states, in part:

> A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

The postcard receipt lists, *inter alia*, declarations and disk. The postcard receipt is date stamped and indicated the application number.

The postcard receipt is adequate evidence that the declarations and disk were received on 06 May 2002. Applicants have now provided an additional copy of the computer readable format.

Additionally, it is noted that the declaration submitted consists of one page one, three page twos and one page three. It appears that separately executed copies of the declaration have been pieced together to create a composite declaration. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy as executed by the inventor must be furnished to the Office. As such, the declaration does not comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

Decision On Petition Under 37 CFR 1.181 mailed on 15 January 2003 is modified to reflect receipt of the computer readable format. The time set in the 15 January 2003 decision to furnish a declaration in compliance with 37 CFR 1.497(a)-(b) continues to run from the mailing of that decision, namely 15 January 2003.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

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PCT Legal Administration

Erin M. Pender
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20 FEB 2003

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Shelley P.M. Fussey
Williams, Morgan & Amerson
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Houston, TX 77040

In re Application of
ROY, Arun K. et al.
Application No.: 10/009,420
PCT No.: PCT/US00/15243
Int. Filing Date: 02 June 2000
Priority Date: 04 June 1999
Attorney Docket No.: 4003.002300
For: ESTROGEN RECEPTOR SITE-SPECIFIC RIBOZYMES AND USES THEREOF FOR ESTROGEN DEPENDENT TUMORS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.181," filed with the United States Patent and Trademark Office on 03 February 2003.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/US00/15243. A demand for international preliminary examination was filed 04 January 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 04 December 2001.

On 08 March 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a sequence listing and a computer readable format were required.

On 06 May 2002, applicants submitted, "Response to Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US) Mailed March 08, 2002."

On 01 August 2002, applicants submitted a petition accompanied by a postcard receipt that lists a declaration and a disk.

On 08 November 2002, applicants submitted a replacement computer readable format.

On 15 January 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, prior to 08 November 2002 submission being matched with the application.

On 03 February 2003, applicants submitted the instant renewed petition.

On 10 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.181.

DISCUSSION

As indicated in the 10 February 2003 Decision on Petition, the 08 November 2002 computer readable format has been matched with the application. As such, applicants' instant petition is moot.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

The time set in the 15 January 2003 decision to furnish a declaration in compliance with 37 CFR 1.497(a)-(b) continues to run from the mailing of that decision, namely 15 January 2003.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

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10 FEB 2003

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PATENT & TRADEMARK OFFICE

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7676 Hillmont, Suite 250
Houston, TX 77040

In re Application of :
ROY, Arun K. et al. :
Application No.: 10/009,420 : DECISION ON
PCT No.: PCT/US00/15243 :
Int. Filing Date: 02 June 2000 : PETITION
Priority Date: 04 June 1999 :
Attorney Docket No.: 4003.002300 : UNDER 37 CFR 1.181
For: ESTROGEN RECEPTOR SITE-SPECIFIC :
RIBOZYMES AND USES THEREOF FOR :
ESTROGEN DEPENDENT TUMORS :

This decision is in response to applicants' submission of 08 November 2002. It has been treated as a petition under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/US00/15243. A demand for international preliminary examination was filed 04 January 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 04 December 2001.

On 08 March 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a sequence listing and a computer readable format were required.

On 06 May 2002, applicants submitted, "Response to Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US) Mailed March 08, 2002."

On 01 August 2002, applicants submitted a petition accompanied by a postcard receipt that lists a declaration and a disk.

On 08 November 2002, applicants submitted a replacement computer readable format.

On 15 January 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, prior to 08 November 2002 submission being matched with the application.

DISCUSSION

MPEP at section 503 states, in part:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

The postcard receipt lists, *inter alia*, declarations and disk. The postcard receipt is date stamped and indicated the application number.

The postcard receipt is adequate evidence that the declarations and disk were received on 06 May 2002. Applicants have now provided an additional copy of the computer readable format.

Additionally, it is noted that the declaration submitted consists of one page one, three page twos and one page three. It appears that separately executed copies of the declaration have been pieced together to create a composite declaration. While it is acceptable for inventors to execute separate copies of the oath or declaration, the complete copy as executed by the inventor must be furnished to the Office. As such, the declaration does not comply with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **GRANTED**.

Decision On Petition Under 37 CFR 1.181 mailed on 15 January 2003 is modified to reflect receipt of the computer readable format. The time set in the 15 January 2003 decision to furnish a declaration in compliance with 37 CFR 1.497(a)-(b) continues to run from the mailing of that decision, namely 15 January 2003.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231; with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

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15 SEP 2003

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Houston, TX 77042

In re Application of
ROY, Arun K. et al.
Application No.: 10/009,420
PCT No.: PCT/US00/15243
Int. Filing Date: 02 June 2000
Priority Date: 04 June 1999
Attorney Docket No.: 4003.002300
For: ESTROGEN RECEPTOR SITE-SPECIFIC RIBOZYMES AND USES THEREOF FOR ESTROGEN DEPENDENT TUMORS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to applicants' "Renewed Petition Under 37 C.F.R. §1.181," filed with the United States Patent and Trademark Office on 03 February 2003.

BACKGROUND

On 02 June 2000, applicants filed international application PCT/US00/15243. A demand for international preliminary examination was filed 04 January 2001, prior to the expiration of nineteen months from the priority date. The deadline for entry into the national stage in the United States was thirty months from the priority date, or 04 December 2001.

On 08 March 2002, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b), a sequence listing and a computer readable format were required.

On 06 May 2002, applicants submitted, "Response to Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office (DO/EO/US) Mailed March 08, 2002."

On 01 August 2002, applicants submitted a petition accompanied by a postcard receipt that lists a declaration and a disk.

On 08 November 2002, applicants submitted a replacement computer readable format.

On 15 January 2003, the Office mailed Decision On Petition Under 37 CFR 1.181, prior to 08 November 2002 submission being matched with the application.

On 03 February 2003, applicants submitted renewed petition and copies of four declarations.

On 10 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.181 in response to the 08 November 2002 submission indicating that the petition was granted and that the declaration on file appeared to be a composite declaration.

On 20 February 2003, the Office mailed Decision On Petition Under 37 CFR 1.181 in response to applicants' Renewed Petition filed 03 February 2003, dismissing it as moot.

On 03 March, applicants submitted copies of earlier submissions by facsimile.

On 12 March 2003, applicants submitted an additional copy of the declarations by facsimile.

DISCUSSION

The four complete declarations filed on 03 February 2003 have been matched with the file. They satisfy the requirements of 37 CFR 1.497(a)-(b).

Applicants indicate in the petition that complete declarations were submitted on 06 May 2002. The Office has on file a composite declaration submitted on 06 May 2002, as discussed in the Decision On Petition mailed 15 January 2003. While a properly itemized postcard receipt is *prima facie* evidence of receipt of the item by the Office, this postcard listing "declarations" is not sufficiently itemized with the number of pages to indicate that the 12 pages of declaration were submitted rather than the 5 pages the Office has on file.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for continued processing in accordance with this decision. The application has a date of 03 February 2003 under 35 U.S.C. §371.

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PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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MAR 0 8 2002

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Deepak Malhotra
WELLS, ST. JOHN, ROBERTS, GREGORY & MATKIN, P.S.
601 West First Avenue, Suite 1300
Spokane, WA 99201-3828

In re Application of
COWPER, Brian E.
Application No.: 10/009,435
PCT No.: PCT/GB01/00735
Int. Filing Date: 22 February 2001
Priority Date: 11 March 2000
Attorney's Docket No.: MA83-002
For: LOCK

DECISION ON

MATTERS ARISING

UNDER 35 U.S.C. 371

The above-identified application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371. No fee is required.

BACKGROUND

On 22 February 2001, applicant filed international application PCT/GB01/00735 claiming priority to a British patent application filed 11 March 2000. A Demand was not filed with the International Preliminary Examination Authority. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee expired twenty months from the priority date, *i.e.*, 11 November 2001.

Applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 via Express Mail which was accompanied by, *inter alia*, the basic national fee and an executed declaration in compliance with 37 CFR 1.497. The date of receipt for the papers was stamped by the USPTO as 09 December 2001.

DISCUSSION

Any correspondence received by the Patent and Trademark Office delivered by "Express Mail" will be considered filed in the office on the date of deposit with the USPS. *See* 37 CFR 1.10(a).

A review of the transmittal letter submitted with the national stage papers reveals that the "Certification Under Section 1.10" ("Certification") on the transmittal letter indicated a date of deposit with the USPS as 09 November 2001. In addition, the Express Mail No. "EL844052935US" was listed in the Certification and it was signed by Nicole Nielsen.

Furthermore, a review of the USPS Track/Confirm records for Express Mail No.

"EL844052935US" indicates that it was accepted by the USPS on 09 November 2001 at 4:30 p.m. in Spokane, WA.

CONCLUSION

Pursuant to 37 CFR 1.10(a), the date of receipt of the national stage papers will be amended to indicate a date of receipt as the date of deposit with the USPS, *i.e.*, 09 November 2001.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 22 February 2001, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of **09 November 2001**.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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Paper No.

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AND CREW, LLP
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SAN FRANCISCO, CA 94111-3834

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Mills et al.	:	
Application No. 10/009,452	:	DECISION ON APPLICATION
International Filing	:	FOR
Date: May 9, 2000	:	PATENT TERM ADJUSTMENT
Attorney Docket No.:	:	
020631-000111US	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed September 7, 2005. Applicants, in effect, request that the determination of patent term extension of zero (0) days in this application be corrected to a determination of patent term adjustment of four hundred twenty-three (423) days.

The petition is **DISMISSED**.

On June 7, 2005, the Office mailed the Determination of Patent Term Extension under 35 U.S.C. 154(b)(application filed after June 7, 1995 but prior to May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 0 days. Petitioner asserts entitlement to a period of adjustment of four hundred twenty-three (423) days.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term

due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The provisions do not apply to international applications filed before May 29, 2000 by virtue of the requirements of 35 U.S.C. 371 having been met on or after May 29, 2000. The date on which an international application fulfills the requirements of 35 U.S.C. 371 is not the filing date, or even relevant to the filing date, of the international application. Section 4405 of the American Inventors Protection Act of 1999 provides that the amendments relating to patent term adjustment shall apply to any application filed on or after May 29, 2000, but does not provide that its patent term adjustment provisions apply to international applications filed before May 29, 2000, that complied with the requirements of 35 U.S.C. 371 on or after May 29, 2000. See Comment 6 to *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

Since the international filing date of this application, May 9, 2000, is before May 29, 2000, this application is not eligible for patent term adjustment due to examination delay.

Since the above-identified application did not have a successful appeal, interference or secrecy order delay, this application is not eligible for the extension or adjustment under 35 U.S.C. 154. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney, Nancy Johnson, at (571) 272 - 3219.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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CROWELL & MORING LLP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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OFFICE OF PETITIONS

In re Patent No. 6,852,311 :
Issued: February 8, 2005 :
Application No. 10/009,476 : ON PETITION
Filed: December 11, 2001 :
Attorney Docket No. 2260/50666 :

This is a decision on the petition under 37 CFR 1.182, filed August 6, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

FEB 2 3 2002

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Greenberg Traurig
1750 Tysons Boulevard, 12th Floor
McLean, VA 22102

In re Application of HAYDEN et al
U.S. Application No.: 10/009,478
Int. Application No.: PCT/CA01/00495
Int. Filing Date: 12 April 2001
Priority Date: 13 April 2000
Attorney Docket No.: 46083.011000
For: MODULATING CELL SURVIVAL BY MODULATING HUNTINGTIN FUNCTION

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 January 2002.

BACKGROUND

On 12 April 2001, applicants filed international application PCT/CA01/00495, which claimed priority of an earlier Canada application filed 13 April 2000. A copy of the international application was communicated to the USPTO from the International Bureau on 25 October 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 13 December 2001.

On 13 December 2001, applicants filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission did not include the basic national fee required by 35 U.S.C. 371.

International application PCT/CA01/00495 became abandoned as to the United States at midnight on 13 December 2001 for failure to pay the basic national fee.

On 18 January 2002, applicants filed the present petition. The petition states that it is accompanied by the basic national fee under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "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."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicants have provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), applicants have provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the appropriate late filing surcharge must be submitted.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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FEB 1 2005

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

In re Application of:
Kordowicz et al.
Serial No.: 10/009,500
Filed: December 11, 2001
Attorney Docket No.: MERCK 2332

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on January 4, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the non-final Office action of April 21, 2004.

A review of the file history shows that the examiner mailed a non-final Office action to applicants on April 21, 2004, setting a three-month statutory time period for reply. On December 1, 2004, the examiner mailed a notice of abandonment for failure respond to the outstanding Office action.

Applicants state that a response to the April 21, 2004 Office action was timely filed on August 23, 2004 along with a one-month extension of time, Exhibit 1 and a check in the amount of $146.00 as evidenced by a copy of the date-stamped receipt card. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED** retroactively as this application is no longer in abandoned status. The application will be forwarded to the examiner for consideration of the response of April 21, 2004.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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#2

William B. Batzer
SCHLUMBERGER-DOLL RESEARCH
36 Old Quarry Road
Ridgefield, CT 06877-4108

In re Application of :
PAPANASTASIOU, Panos :
U.S. Application No.: 10/009,505 :
PCT No.: PCT/GB00/02471 :
Int. Filing Date: 22 June 2000 : **DECISION**
Priority Date: 23 June 1999 :
Attorney Docket No.: US57.0328 :
For: CAVITY STABILITY PREDICTION :
METHOD FOR WELLBORES :

This is a decision on applicants' "Petition Under 37 CFR 1.181 to Reset the Period for Response" filed on 18 November 2003 which is treated as a petition to withdraw the holding of abandonment. No fee is required.

BACKGROUND

On 06 February 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 29 July 2002, a "Status Inquiry" was submitted requesting information on the above-identified application.

On 18 November 2002, applicants submitted the instant petition which was accompanied by, *inter alia*, a document titled "Submission of Missing Parts" along with an executed declaration.

DISCUSSION

The time period to respond to the Form PCT/DO/EO/905 mailed 06 February 2002 including all extensions of time pursuant to 37 CFR 1.136(a) has already expired.

Accordingly, the above-captioned application is hereby **ABANDONED**.

In the instant petition, applicants claim that the Form PCT/DO/EO/905 mailed 06 February 2002 was never received until a copy was sent via facsimile in November 2002 after a call to the PCT Help Desk. Accordingly, this petition is deemed a petition

to withdraw the holding of abandonment based on a failure to receive an Office action, not a petition to reset the time period due to late receipt of an Office action. *See* § 711.03(c) MPEP.

Petition to Withdraw the Holding of Abandonment

The showing required to establish the failure to receive an Office communication consists of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the "Status Inquiry" filed 29 July 2002, applicants claim that "[w]e are currently waiting for the Official "Filing Receipt" and "Notice to File Missing Parts, *Filing Date Granted.*" This statement satisfies item (1). However, applicants have not made the required statement that a search of the file jacket and docket records indicate that the Notification of Missing requirements was never received. As such, item (2) is not yet complete.

In addition, petitioners have not provided a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. This requirement is outlined in section 711.03(c) of the MPEP which states, in part:

> 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.

Applicants may provide a copy of the docket records for the date upon which a response to the Form PCT/DO/EO/905 mailed 06 February 2002 was due (*i.e.*, 06 April 2002). An example of such a record would be a daily "tickler" report or a daily log showing all applications for which a response is due on that date. However, this evidence has not yet been provided. As such, item (3) is not satisfied.

Applicants have not yet established nonreceipt of an Office action.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." No fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645

27 FEB 2004

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#9

William B. Batzer
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Ridgefield, CT 06877-4108

In re Application of :
PAPANASTASIOU, Panos :
U.S. Application No.: 10/009,505 :
PCT No.: PCT/GB00/02471 :
Int. Filing Date: 22 June 2000 : **DECISION**
Priority Date: 23 June 1999 :
Attorney Docket No.: US57.0328 :
For: CAVITY STABILITY PREDICTION :
METHOD FOR WELLBORES :

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.181" filed on 12 February 2003. No fee is required.

BACKGROUND

On 10 December 2003, a decision dismissing applicant's petition to withdraw the holding of abandonment for failure to receive an office action was mailed. The decision noted that a statement that a search of the file jacket and docket records indicate that the Notification of Missing requirements was never received and a copy of counsel's docket records showing all applications for which a response was due on 06 April 2002 was needed for a grantable petition. Applicants were given two months to respond.

On 12 February 2004, applicant submitted the instant response.

DISCUSSION

As noted in the decision dated 10 December 2003, the time period to respond to the Form PCT/DO/EO/905 mailed 06 February 2002 including all extensions of time expired 06 September 2002. Applicant failed to respond during this period of time.

Accordingly, the above-captioned application is **ABANDONED**.

In the renewed petition, applicants claim that an updated Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed 20 November 2002 resetting the period to respond. Since applicants had already submitted an executed declaration with the original petition on 11 November 2002, "[a]pplicant believes that holding of abandonment in this case is moot and must be withdrawn."

Applicant is mistaken.

37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply. *See* § 711.02 MPEP. The above-captioned application was abandoned by operation of law for failure to timely respond to an Office action. The Form PCT/DO/EO/905 mailed on 13 November 2002 (in error) does not revive an abandoned application or reset the period to respond that has already expired.

Applicants must respond to the 10 December 2003 decision by submitting a copy of the docket records for the date upon which a response to the Form PCT/DO/EO/905 mailed 06 February 2002 was due (*i.e.*, 06 April 2002) and attesting that a search of the file jacket and docket records show that the Form PCT/DO/EO/905 mailed 06 February 2002 was not received.

CONCLUSION

Applicants' renewed petition is **DISMISSED** without prejudice.

The Form PCT/DO/EO/905 mailed 13 November 2002 in the above-captioned application is **VACATED**. The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). If applicant is unable to demonstrate that the Form PCT/DO/EO/905 mailed 06 February 2002 was not received, then a petition to revive pursuant to 37 CFR 1.137(a) or (b) is appropriate.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645

07 JUN 2004

#11

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In re Application of :
PAPANASTASIOU, Panos :
U.S. Application No.: 10/009,505 :
PCT No.: PCT/GB00/02471 :
Int. Filing Date: 22 June 2000 : **DECISION**
Priority Date: 23 June 1999 :
Attorney Docket No.: US57.0328 :
For: CAVITY STABILITY PREDICTION :
METHOD FOR WELLBORES :

Applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 26 April 2004 is hereby **GRANTED** as follows:

The petition to revive fee has been paid. An executed declaration in compliance with 37 CFR 1.497(a) and (b) that responds to the Form PCT/DO/EO/905 mailed 06 February 2002 was submitted on 18 November 2002.

Applicant states that "[t]he 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" as required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required in this case. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 22 June 2000, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 November 2002.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

27 MAR 2003

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Edward R. Freedman
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1077 Northern Boulevard
Roslyn, New York 11576-1696

In re Application of :
RUDINGER, et al. :
U.S. Application No.: 10/,009,507 : DECISION ON PETITION
PCT No.: PCT/EP00/06092 :
Int. Filing Date: 29 June 2000 : UNDER 37 CFR 1.182
Priority Date: 22 July 1999 :
Attorney's Docket No.: RUDINGER ET AL-5 (PCT) :
For: PROCESS FOR THE SEPARATION AND :
PURIFICATION OF AN AQUEOUS MIXTURE :
COMPRISING THE MAIN COMPONENTS :
ACETIC ACID AND FORMIC ACID :

This decision is in response to applicant's petition under 37 CFR 1.182 filed 29 October 2002 in the United States Patent and Trademark Office (USPTO). Applicant has provided the $130.00 petition fee.

BACKGROUND

On 18 April 2002, applicant was mailed a communication indicating that the declaration filed 05 December 2001 was not in compliance with 37 CFR 1.497 (a)-(b). Specifically, the fifth listed inventor was listed and executed as "Barbara WILD" whereas the International Application lists the fifth inventor as "Barbara REIL." Applicant was instructed to provide either a declaration executed with the name which appears on the international application,"Barbara REIL" or in the alternative, a petition under 37 CFR 1.182 requesting that applicant's name be changed to "Barbara WILD." Applicant was afforded two months to file a proper response.

On 08 July 2002, applicant filed a newly executed combined declaration and power of attorney in which the fifth inventor was identified and executed as Barbara REIL.

On 16 August 2002, applicant was mailed communication detailing that applicant previously filed an executed declaration listing the fifth inventor as Barbara WILD and that it was unclear if the true legal name of the fifth inventor of the present application is Barbara REIL or Barbara WILD. Applicant was again instructed to provide either a declaration executed with the name which appears on the international application,"Barbara REIL" or in the alternative, a petition under 37 CFR 1.182 requesting that applicant's name be changed to "Barbara WILD." Applicant was afforded two months to file a proper response.

On 29 October 2002, applicant filed the present petition under 37 CFR 1.182 accompanied by a declaration executed by Barbara Wild. The papers were certified as having been deposited for mailing on 16 October 2002 and thus are considered to be timely filed.

DISCUSSION

The present petition is accompanied by a declaration setting forth the procedure whereby the change of name was effected; namely by marriage and subsequent divorce. The declaration is executed by Ms. Wild in both her married and current maiden name. As such, it is appropriate to grant applicant's petition at this time.

CONCLUSION

The petition under 37 CFR 1.182 to change the inventor's name from Barbara REIL to Barbara WILD is **GRANTED**.

The application has an international filing date of 29 June 2000 under 35 U.S.C. 363 and a date of **05 December 2001** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Attorney Advisor
PCT Legal Office
Tel: (703) 305-0130
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OFFICE OF PETITIONS

In re Application of :
Takahisa SUZUKI et al :
Application No. 10/009,519 : DECISION ON PETITION
Filed: December 11, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 30014920.0001 :

This is a decision on the petition filed October 24, 2005 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed December 15, 2003 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 16, 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 of $750 for a small entity; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of December 15, 2003 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 Amelia Au at (571) 272-7414. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application file is being referred to Technology Center Art Unit 2643 for appropriate action on the concurrently filed amendment.

Amelia Au
Petitions Examiner
Office of Petitions

cc: JEAN C. EDWARDS, ESQ.
801 PENNSYLVANIA AVE, N.W.
SUITE 600
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Patent No. 7,087,097 :
Issued: August 8, 2006 :
Application No. 10/009,542 : DECISION DISMISSING PETITION
Filed:June 3, 2002 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 942640-18 :

This is a decision on the petition, filed August 7, 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 request is **dismissed**.

Petitioner states that the correct assignee's name is **BIOAGE GMBH** and that an incorrect assignee's name was unintentionally included on Fee Transmittal Form PTOL-85(b) at the time of payment of the issue fee.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by

---

[1] *See* Official Gazette of June 22, 2004

3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to **BIOAGE GMBH** 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 **BIOAGE GMBH** 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 BIOAGE GMBH, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in the instant 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 the instant request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3208. 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 concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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JUN 17 2004

Matthew E. Mulkeen
FOLEY & LARDNER
Washington Harbour
3000 K. Street, N.W., Suite 500
Washington, D.C. 20007-5109

In re Application of
Jonathan Richard Anthony ROFFEY et al
Serial No.: 10/009,567
Filed: April 5, 2002
Attorney Docket No.: 040283-0196

DECISION ON PETITION

This is in response to applicant's " Petition Against Restriction Requirement" filed December 1, 2003. The delay is regretted.

On June 6, 2003, the examiner issued a restriction requirement, dividing the invention into six groups. See Office action dated June 6, 2003 for the Groups. The claims were indicated as lacking special technical feature as defined a contribution over the prior art. The examiner, specifically, alleged that the N-amino indoline did not define a contribution over 5,633,276. On July 7, 2003, applicants filed a response identifying with traverse that following group for examination: Formula (I), wherein R_1-R_7 are as found in claim 1 and A is a 2,3-dihydrofuryl. Applicants requested that examination begin with Example 3 as the elected species. Applicants argued that the finding of the lack of unity was improper because it ignore the totally of the claimed structure, which was a N-amino indoline with a branched amino ethyl group, i.e. a -$(CH_2)(CHR_3)$pNR1R_2. On September 29, 2003, an Office action was issued. While the examiner expand certain aspects of examination over the original restriction requirement. The examiner further stated that the aminoethy group is not considered part of the invention. The examiner also stated that even the aminoethyl group were considered part of the invention, the invention would still not have a special technical feature over US'829. On December 1, 2003, the present petition was filed. Applicants urge that if Formula (I) viewed as a whole, it should be recognized that Formula (I) is a tricyclic indoline-type moiety with a branched 2-aminoalkyl group attached to the N of the tricyclic indoline and that is the shared common core. Applicants rely on PCT administrative Instruction, Annex B, Part I, specifically, Examples 19 and 20, for support. Applicants further urge that all of the method claims have unity of invention because they are linked by a common structure.

The Lack of Unity and applicants' arguments have been carefully reviewed and considered. The tricyclic indoline in Formula (I) contains a A ring, which is a 5- or 6- member ring optionally containing one or more heteroatoms wherein the atoms of the ring A, other than the unsaturated carbon atoms of the phenyl ring to which the ring A is fused, are saturated, or a pharmaceutically acceptable salt, addition compound or prodrug thereof. Thus the tricyclic indoline is **not a fixed structure** rather various tricyclic indoline structures. The various tricyclic ring systems, for examples, benz[g]indolinyl, tetrahydrofuro[2,3,g]indolinyl, tetrahydro-pyrano[2,3-g]indolinyl, have diverse chemical structures and would not considered to be **a** common core. Thus there is **not a shared common** chemical structure. The restriction is deemed proper. Accordingly, the petition is denied.

Petition Denied.

Should there be any questions with regard to this letter please contact Cecilia Tsang by telephone at 571-272-0562 or by letter addressed to the Director, Technology Center 1600, P.O. Box 1450 Alexandria, VA 22313-1450.

Bruce Kisliuk
Director, Technology Center 1600

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DEC 30 2004

BERNARD D. SAXE
FOLEY & LARDNER
WASHINGTON HARBOR
1000 K STREET, NW, SUITE 500
WASHINGTON, DC 20007-5143

In re Application of	:
Jonathan A. R. Roffey et al	:
Serial No.: 10/009,567	: PETITION DECISION
Filed: April 5, 2002	:
Attorney Docket No.: 040283-0196	:

This is in response to the renewed petition under 37 CFR 1.144, filed August 17, 2004, requesting withdrawal of an improper restriction requirement. 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 file history shows that this application was filed under 35 U.S.C. 371 and accepted on April 5, 2002, and, as amended, contained claims 1-14, 17-21, 24-26, and 28-29. In a first Office action, mailed June 6, 2003, the examiner held Lack of Unity between the claims, as follows:

Group I – Claims 1-14, 17-21, 24-26, and 28-29, where A is phenyl, drawn to a product, its method of preparation and use for treatment of obesity;

Group II – Claims 1-14, 17-21, 24-26, and 28-29, where A is phenyl, drawn to a product, its method of preparation and use for treatment of depression;

Group III – Claims 1-14, 17-21, 24-26, and 28-29, where A is tetrahydropyridinyl, drawn to a product, its method of preparation and use for treatment of obesity;

Group IV - Claims 1-14, 17-21, 24-26, and 28-29, where A is tetrahydropydinyl, drawn to a product, its method of preparation and use for treatment of depression;

Group V - Claims 1-14, 17-21, 24-26, and 28-29, where A is 2,3-dihydro-1,4-dioxin, drawn to a product, its method of preparation and use for treatment of obesity; and

Group VI - Claims 1-14, 17-21, 24-26, and 28-29, where A is 2,3-dihydro-1,4-dioxin, drawn to a product, its method of preparation and use for treatment of depression.

The examiner also allowed applicants to define a different embodiment for A and elect it as not all possible embodiments for A were identified. The examiner held Lack of Unity based on lack of a common special technical feature in the ring system due to the variability of A.

Applicants replied on July 7, 2003, and defined A as 2,3-dihydrofuryl and elected it with traverse, setting forth appropriate arguments.

The examiner maintained the holding in the next Office action, mailed September 29, 2003, and examined and found allowable the embodiment elected by applicants. Claims 18-21 and 26 were withdrawn as drawn to a non-elected invention. An objection to the claims was also set forth in that they contained non-elected subject matter which needed to be canceled. The examiner also replied to the traversal of the Lack of Untiy requirement.

Applicants amended the claims in a reply filed December 1, 2003, and added claims 31-36. Applicants again traversed the Lack of Unity requirement and presented the same arguments as previously in support thereof. The Lack of Unity holding was also petitioned.

On March 19, 2004, the examiner mailed a Final Office action to applicants making the Lack of Unity and objection to the claims Final for reasons previously set forth. A full reply to applicants' arguments regarding the Lack of Unity holding was also made.

A petition decision sustaining the examiner's position was mailed to applicants on June 17, 2004.

Applicants filed a Request to Reconsider the Petition Decision on August 17, 2004, and concurrently filed RCE papers which have been accepted, but not further acted on pending the petition decision. The RCE papers include an amendment limiting the A ring to a five membered ring optionally containing one heteroatom from O, S or N, all other variables remaining as previously defined.

DISCUSSION

Applicants request reconsideration only to a limited extent of the previous petition decision in view of the amendments to the claims. Having amended the claims with the amendment accompanying the RCE papers and limiting A to a five member ring optionally containing one heteroatom, applicants request that Unity be found with respect to the remaining claims in the application.

Applicants argue that since this application is the national stage entry of an International (PCT) application, PCT guidelines for holding of Lack of Unity must be followed and rely on two examples (Examples 19 and 20) from Annex B of the Administrative Instructions for PCT which are incorporated into the Rules of Practice. While the examples on their face appear to support applicants' argument for rejoinder, it must be remembered that the examples are illustrative only and rely on simple structures to establish a point.

The previous petition decision stated that the tricyclic indoline is not a fixed structure for two reasons, (1) it is a variable size ring (5 or 6 membered) and (2) it contains, optionally, a heteroatom of O, S or N, and gave examples thereof. By limiting the ring size in the continuing prosecution to five membered only, the first of these reasons has been rendered moot. However, the second reason, the presence of a variable heteroatom remains. It is well recognized in the art that the presence or absence of a heteroatoom in a structure, especially a ring structure, alters its physical and chemical characteristics and reactivities. In other words, a structure with an N atom present in the A ring would be different in structure and activity from an A ring with no heteroatom or one with an O or S heteroatom. That an aminoethyl group also is part of the basic structure is noted, but it does not affect the characteristics of the tricyclic structure, especially the A ring which is opposite to the point of attachment of the aminoethyl group. In general a special technical feature based on structure requires that the structure be invariant, or if containing a variable, the variable values must be art recognized as equivalents in the structure.

With respect to the two examples cited from Annex B, both show an alkyl attached to a six membered heteroring having Z as a heteroatom (O, S, N or C). Note that the last sentence of each example states that the six membered heterocyclic ring would not have been sufficient to establish Unity absent some other teaching of equivalence. In like manner here, the bicyclic indoline ring structure (which here is the invariant structure) is not sufficient to establish Unity absent some additional qualifying structure or activity. Even with the aminoethyl group attached to the indoline ring Unity lacks as established by the examiner through citation of references showing such structure. Only with the addition of the A ring can Unity be established by creation of a special technical feature or structure. However the A ring is common to four (or more) different structures, as noted above. In consequence thereof Unity is lacking between a non-heterocyclic A ring and an A ring with a N atom or an A ring with either an S or O atom (S and O being considered general equivalents).

In summary, the examiner's holding of Lack of Unity is proper based on variations in the A ring between O or S and N or no heteroatom and further based on the type of condition being treated (depression, obesity, etc.). The filing of RCE papers does not affect the basic holding except to eliminate any six membered A ring variants.

DECISION

The petition upon careful reconsideration is **DENIED.**

The application will be forwarded to the examiner for further prosecution.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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APR 2 8 2006

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of :
GASSER et al. :
Application No. 10/009,603 : DECISION ON PETITION
Filed: December 11, 2001 : TO WITHDRAW
Attorney Docket No. 0475-0198P : 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 December 23, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Andrew Meikle and those practitioners associated with Customer Number 02292 do not have power of attorney in this patent application. 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 below-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed February 8, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mueting, Raasch, & Gebhardt, P.A.
203 Textile Building, 119 4th St.
Minneapolis, MN 55401

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Paper No. None

David R Kurlandsky
Warner Lambert Company
2800 Plymouth Road
Ann Arbor MI 48105

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JUN 29 2005

OFFICE OF PETITIONS

In re Application of
Corinne Elizabeth Augelli-Szafran et al.
Application No. 10/009,611
Filed: May 20, 2002
Attorney Docket No.: 5941-01-DRK
Title: METHOD OF INHIBITING AMYLOID PROTEIN AGGREGATION AND IMAGING AMYLOID DEPOSITS

DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition under 37 CFR §1.137(b)[1], filed March 28, 2005, to revive the above-identified application. The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 29, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on October 30, 2004. A Notice of Abandonment was mailed on December 13, 2004.

With the petition, Petitioner has submitted the petition and issue fees, as well as the proper statement of unintentional delay. Petitioner has met all requirements for a grantable petition under 37 C.F.R. §1.137(b). As such, the petition is **GRANTED**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 See MPEP §710.02(e).

to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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[3]. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: JUBINSKY,JAMES
Pfizer, Inc.
150 East 42nd Street
150-5-42N
New York, NY 10017--561

3 See 37 CFR 10.18(b); cf. 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). vh

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 26, 2009

TO SPE OF : ART UNIT 1793 - SPE Roy V. King.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/009,633 Patent No.: 6,749,003 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

_____

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Jessica Ward 1793

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FRIEDRICH KUEFFNER
SUITE 910
317 MADISON AVENUE
NEW YORK NY 10017

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Werner Haug	:	DECISION ON PETITION TO
Application No. 10/009,680	:	WITHDRAW HOLDING OF
Filed: 20 September, 2001	:	ABANDONMENT
Attny Docket No. FE-15PCT	:	

This is a decision on the petition filed on 3 April, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a reply to the final Office action mailed on 9 January, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 20 September, 2006.

Petitioner asserts that the final Office action mailed on 9 January, 2006, was not received because it was mailed to the wrong address due to USPTO error. Specifically, petitioner asserts that a Change of Correspondence Address was filed on 22 April, 2002, but that the Office action mailed on 9 January, 2006, was mailed to the previous address.[1]

In the absence of any irregularity in the mailing of the 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

[1] In support, petitioners have filed a copy of a change of correspondence address listing the new address. The change of correspondence address lists the application number of the prior-filed PCT application. It appears that petitioners did not receive notice of the present application's application number, and therefore were unable to file the change of correspondence address with the correct application number.

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 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 action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

A review of the Official file reveals that the Office action mailed on 9 January, 2006, was returned as undeliverable. Additionally, the Notice of Abandonment mailed on 20 September, 2006, was returned as undeliverable. As such, the showing of record is that there was an irregularity in the mailing of the Office action mailed on 9 January, 2006, in that said Office action was not mailed to the current correspondence address.

Consequently, there was no abandonment in fact.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The correspondence address has been updated.

The application file will be referred to the Technology Center's Technical Support Staff for remailing of the Office action mailed on 9 January, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Werner Haug	:	DECISION ON PETITION TO
Application Number: 10/009680	:	WITHDRAW HOLDING OF
Filing Date: 10/20/2001	:	ABANDONMENT
Attorney Docket Number: FE-15PCT	:	
	:	

This is a decision on the petition filed on October 20, 2008, to withdraw the holding of abandonment in the above-identified application.

A Notice of Abandonment was mailed on October 7, 2008, stating that the application was abandoned for failure to response to the final Office action mailed on March 24, 2008

Petitioner asserts that a timely and proper response to the final Office action was filed, in the form of an amendment after final and Notice of Appeal.

A review of the record reveals that on March 24, 2008, a final Office action was mailed, setting a three (3) month shortened statutory period for reply. On September 29, 2008 (certificate of mailing September 24, 2008), petitioner filed an amendment after final rejection and a Notice of Appeal were filed, accompanied by authorization to charge a three (3) month extension of time to counsel's deposit account. The extension of time fee has been charged to counsel's deposit account.

At the outset, the amendment after final rejection filed on September 29, 2008, has been found not to place the application in condition for allowance. A copy of the Advisory Action Before the Filing of an Appeal Brief is attached to this decision.

Nevertheless, as a Notice of Appeal and fee were also filed on September 29, 2008, petitioners have established that they submitted a timely and proper reply to the final Office action in the form of a Notice of Appeal and a three (3)-month extension of time on September 29, 2008 (certificate of mailing date September 24, 2008). **Therefore, the Office reminds applicant that the two (2)-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee required by law, began to run on September 29, 2008, the date of filing the Notice of Appeal.** The Office notes that "37 CFR 41.37(a) does not permit the brief to be filed within the time allowed for reply to the action from which the appeal was taken even if such time is later." *MPEP 1205*. "Once appellant timely files a notice of appeal in compliance with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." *Id.* **Therefore, applicant is required to submit an appeal brief on or before April 29, 2009, accompanied by a request for an extension of time for response within the fifth month and fee to avoid abandonment of this application.** In other words, applicant, himself, started the running of the two-month extendable period to file an appeal brief based upon the date applicant originally submitted the Notice of Appeal with the USPTO.

The petition is **granted** to the extent indicate above.

The holding of abandonment is withdrawn and the application is restored to pending status.

This matter is being referred to Technology Center Art Unit 3628 to await the filing of an appeal brief within the period noted above.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf: Advisory Action Before the Filing of an Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 1-3-06

meb
Paper Number: _____

In re application of
Suzuki et al.

Serial No. 10/009,738
Filed: December 17, 2001
For: Process For Polymerizing Olefins

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed October 18, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 18, 2005 for failure to timely respond to the Notice Regarding Drawings mailed April 19, 2005, be withdrawn. The petitioner asserts that the Notice Regarding Drawings, mailed April 19, 2005 was not received by the applicants. The evidence provided includes a statement by the petitioner that the Notice Regarding Drawings 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 Regarding Drawings mailed April 19, 2005 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Notice Regarding Drawings would have been posted had it been timely received. The petitioner also asserts that review of the PAIR "Image File Wrapper" shows no evidence that a Notice Regarding Drawings was mailed on April 19, 2005.

DECISION

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(I).

The evidence presented is sufficient to establish that the Notice Regarding Drawings was not received by the petitioner. The evidence provided includes a statement by the petitioner that the Notice Regarding Drawings 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 Regarding Drawings mailed April 19, 2005 was not received. Also provided is a copy of the automated docketing record and cover of the docket file, where the Notice Regarding Drawings would have been posted had it been timely received. Furthermore, upon review of Office records, there is no evidence that a Notice Regarding Drawings was mailed on April 19, 2005.

Therefore, the Notice of Abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the Office of Patent Publications for prompt consideration of the corrected drawings submitted concurrently with the instant petition, on October 18, 2005.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Raymond C. Stewart
Birch, Stewart, Kolasch & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

21 APR 2003

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#6

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William S. Frommer
Frommer Lawrence & Huag
745 Fifth Avenue
New York, New York 10151

In re Application of	:	
KONDO et al.	:	
Application No. 10/009,760	:	
PCT No.: PCT/JP01/03203	:	DECISION ON PETITION
Int. Filing Date: 13 April 2001	:	UNDER 37 CFR 1.181
Priority Date: 13 April 2000	:	
Attorney Docket No.: 450101-03158	:	
For: IMAGE PICK-UP APPARATUS AND IMAGE PICK-UP METHOD	:	

This is a decision on applicants' "Petition to Remove Abandonment," which is being treated as a petition to withdraw holding of abandonment under 37 CFR 1.181 filed in the Patent and Trademark Office (PTO) on 13 January 2003. No petition fee is not required.

BACKGROUND

On 13 April 2001, applicants filed international application no. PCT/JP01/03203 which claimed a priority date of 13 April 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 25 October 2001. No Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for entry into the national stage in the United States expired 20 months from the priority date, on 13 December 2001.

On 11 December 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia,: the basic national fee; an information disclosure statement; and an English translation of the international application.

On 01 February 2002, the United Stated Designated/Elected Office mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 02 January 2003, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT indicating, in effect, that the application was abandoned for failure to respond to the Notification of Missing Requirements mailed 01 February 2002.

On 18 January 2002, applicants filed the present petition requesting, in effect, that the holding of abandonment in the case be withdrawn on the grounds that applicant filed a response on 29 March 2002. The petition was accompanied by: a copy of a communication regarding submission of declaration; a copy of the combined declaration and power of attorney allegedly filed 29 March 2002; and an unstamped "postcard" receipt.

DISCUSSION

A review of the application file reveals that the original declaration allegedly filed 29 March 2002 under 37 CFR 1.8 is not located therein.

37 CFR 1.8 states:

> 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 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 Commissioner to the previous timely mailing or transmission.

The evidence filed with the petition is convincing that a response including a combined declaration power of attorney was filed with a certificate of mailing dated 18 December 2000. With a grantable three month extension of time being provided with the response, the response filed 29 March 2002 was timely to the Notification of Missing Requirements mailed 01 February 2002. Additionally, applicant has: (1) informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office did not receive the items mailed 18 December 2000, (2) supplied copies of the previously mailed correspondence; and (3)William Frommer attests that, "on March 29, 2002, I prepared and signed a communication on the above-referenced application, enclosing a signed declaration in response to a Notification of Missing Parts of the Application dated February 1, 2002 . . . " Thus, it is considered appropriate to withdraw the holding of abandonment.

Accordingly, it is considered appropriate to withdraw the holding of abandonment.

CONCLUSION

As construed above, applicants' petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment mailed on 02 January 2003 is hereby **VACATED**.

The application has an international filing date of 10 December 1999 under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of **13 January 2003**.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone 703-308-6314
Fax: 703-308-6459

16 SEP 2002
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Richard A. Rezek
Barnes & Thornburg
11 South Meridian Street
Indianapolis, IN 46204

In re Application of	:	
WILLIAMSON, et al.	:	DECISION ON
Application No.: 10/009,787	:	
PCT No.: PCT/US00/15178	:	PETITION UNDER
Int. Filing Date: 01 June 2000	:	
Priority Date: 01 June 1999	:	37 CFR 1.182
Attorney Docket No.: 3177-69131	:	
For: WELDABLE MOUNT FOR FUEL SYSTEMS COMPONENT	:	

This decision is in response to applicants' "Petition Under 37 CFR 1.182 in Response to The Notification of Missing Requirements Under 35 U.S.C. 371" filed 01 July 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 05 June 2002, applicant was mailed a "Notification of Missing Requirements Under 35 U.S.C. 371" informing applicant that applicant was required to file a petition under 37 CFR 1.182 as the international application listed the first inventor as Nancy AMBURGEY whereas the submitted declaration listed the first inventor as Nancy WILLIAMSON. Applicant was afforded two months to file a proper response.

On 01 July 2002, applicant filed the present petition under 37 CFR 1.182 to change the name of the first inventor from Nancy AMBURGEY to Nancy WILLIAMSON due to the marriage. The petition was accompanied by a declaration signed by Nancy WILLIAMSON using both her former name and present name. The $130 petition fee has been submitted.

DISCUSSION

The Manual of Patent Examining Procedure at § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include the appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or certified copy of the court order.

The papers have been reviewed and the papers are accepted.

The declaration submitted on 12 November 2001 and executed by Nancy WILLIAMSON, Thomas BLEASE, Jeffrey DEVALL and Dwight SMITH is accepted.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 to change the inventor's name from Nancy AMBURGEY to Nancy WILLIAMSON is **GRANTED**.

The application has an international filing date of 01 June 2000 under 35 U.S.C. 363 and a date of **12 November 2001** under 35 U.S.C. 371(c).

This application is being forwarded to the National Stage Processing Branch of the International Division for continued national stage processing.

Boris Milef
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PCT Legal Office

Derek A. Putonen
Petitions Attorney
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IRVINE CA 92614

In re Application of	:	
LEE et al	:	DECISION ON
Application No.: 10/009,792	:	
PCT No.: PCT/KR01/00549	:	PETITION
Int. Filing Date: 31 March 2001	:	
Priority Date: 31 March 2000	:	UNDER 37 CFR 1.181
Attorney's Docket No.: HYLEE60.001APC	:	
For: ESCHERICHIA COLI STRAIN SECRETING HUMAN GRANULOCYTE COLONY STIMULATING FACTOR (G-CSF)	:	

This decision is in response to applicant's petition filed 22 November 2005, requesting correction of filing date which is being treated as a petition under 37 CFR 1.10(c) to accord a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of 13 November 2001 to the above-identified application. No petition fee is required.

BACKGROUND

The United States Elected Office (DO/EO/US) accorded a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of 13 December 2001 to the above-identified application.

On 22 November 2005, applicant filed the present petition, which included a copy of the Customer Receipt of the "Express Mail" mailing label "#EV037395037US." The mailing label was addressed to the "Assistant Commissioner for Patents, Washington, DC 20231-001, Attn: Box Patent App" and shows a "Date In" of "11/13" and a United States Postal Service plug stamp showing a date of "NOV 13 2001." The petition included a copy of a request mailed 08 January 2002 to correct the filing date and a postcard receipt stamped by the USPTO showing receipt of the request on 28 Jan 2002.

DISCUSSION

The evidence of record is sufficient to establish with reasonable certainty that the national stage papers were deposited with the United States Postal Service as an "Express Mail" Mailing on 13 November 2001. Specifically, the "Express Mail" label number ("#EV037395037US") appears on the Certificate of Mailing by "Express Mail" (37 CFR 1.10). The indication of the

"Express Mail" label number appearing on the Certificate of Mailing ties the "Express Mail" label and the Certificate of Mailing together such that it is clear that the national stage application was deposited on 13 November 2001.

CONCLUSION

Applicant's petition requesting that the application papers be accorded a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of **13 November 2001** is **GRANTED.**

This application is being forwarded to the National Stage Processing Branch of the International Division for treatment in accordance with this decision, that is for preparation and mailing of a corrected Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) and issuance of a corrected filing receipt.

Leonard E. Smith
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MAR 2 6 2002

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Calfee, Halter & Griswold LLP
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In re Application of
REFFNER, John A., et al.
Application No.: 10/009,806
PCT Application No.: PCT/US99/29559
International Filing Date: 13 December 1999
Priority Date: 14 December 1998
Attorney Docket No.: 23959/04040
For: MINIATURIZED OPTO-ELECTRONIC MAGNIFYING SYSTEM

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

Applicants' "Petition for Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed in the United States Patent and Trademark Office on 13 November 2001 is **GRANTED**.

BACKGROUND

On 13 December 1999, applicants filed an international application, PCT/US99/29559 with the United States Receiving Office. Applicants elected the United States in a demand filed on 14 July 2000. The thirty month time period for entering the national stage expired at midnight on 14 June 2001.

On 13 November 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, a petition to revive, payment of the petition fee and payment of the basic national fee.[1]

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) 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, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

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[1]It is noted that the transmittal letter, petition to revive and declaration appear to have been incorrectly stamped with a date of 13 December 2001. For example, the second page of the transmittal letter bears a "13 Dec 2001," but the first page is date stamped "13 Nov 2001." The Express Mail Envelope present in the application file indicated a date in of 13 November 2001.

Applicants state "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," as required by 37 CFR 1.137(b)(3). The appropriate national fee and petition fee have been submitted. A terminal disclaimer is not required as application was filed on 13 December 1999. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **GRANTED** as to the National Stage in the United States of America.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The application has a 35 U.S.C. §371 date of 13 November 2001.

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#6

16 MAY 2003

Jason D. Voight
Keil & Weinkauf
1350 Connecticut Avenue, N.W.
Washington, D.C. 20036

In re Application of	:
Koch et al	:
Application No.: 10/009,831	:
PCT No.: PCT/EP00/05256	:
Int. Filing Date: 07 June 2000	: DECISION
Priority Date: 17 June 1999	:
Attorney's Docket No.: 50063	:
For: SUPPORT CATALYST FOR OLEFIN POLYMERIZATION	:

This decision is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," mailed 16 January 2003 which is being treated as a petition under 37 CFR 1.8.

BACKGROUND

On 07 June 2000, applicants filed international application PCT/EP00/05256 that claimed priority of earlier Dutch application which was filed 17 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 28 December 2000. A Demand for international preliminary examination was filed 17 November 2000. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 17 December 2001.

On 17 December 2001, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a translation, and the basic national fee as required by 35 U.S.C. 371(c). These papers were assigned application number 10/009,831.

On 07 February 2002, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) indicating that an

oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date were required. The Notice set a two-month extendable time period for response.

On 09 January 2003, the United States Patent and Trademark Office (USPTO) in its capacity as an Elected Office mailed out a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909).

On 16 January 2003, applicant submitted the current petition which was accompanied by a copy of an executed declaration and a "Copy of Docket Page 2-18-219."

DISCUSSION

37 CFR 1.8 states, in part:

> Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for allother purposes.
> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated...
> (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 Patent and Trademark Office, and the application is held to be abandoned or 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 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.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Applicants have informed the Office of the previous mailing, supplied an additional copy of the previously mailed declaration and the required statement. Therefore, the petition to withdraw the holding of abandonment is granted.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The **$130** surcharge fee for filing the declaration after thirty months from the earliest priority date has been **charged** to applicants' **DEPOSIT ACCOUNT # 11.0345**.

Applicant is advised that, effective May 1, 2003, the Office has changed its correspondence address. Any further correspondence with respect to this matter deposited with the United States Postal Service on or after May 1, 2003 should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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Conferee: Leonard Smith
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UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 8/15/05

meb
Paper Number: _____

In re application of
Koch et al.

Serial No. 10/009,831
Filed: May 16, 2003
For: Supported Catalyst For Olefin Polymerization

DECISION ON
PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT, filed May 3, 2005 and supplementally on July 18, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 18, 2005 for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed December 1, 2004, be withdrawn. The petitioner asserts that the Notice of Allowability and Notice of Allowance and Issue Fee Due mailed December 1, 2004 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 December 1, 2004 were not received. Also provided is a copy of the docket record of Applicant's attorney, where the Notice of

Allowability and Notice of Allowance and Issue Fee Due would have been posted had it 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**.

Jacqueline M. Stone

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0 8 JAN 2003

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In re Application of
PLATT, et al.
Application No.: 10/009,907
PCT No.: PCT/AU00/00656
Int. Filing Date: 09 June 2000
Priority Date: 10 June 1999
Attorney Docket No.: None
For: CYCLING EVENT AND AUTO-TRIGGER MEMORY HANDLING

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This decision is in response to applicant's "Petition to Revive Abandoned Application Under The Provisions of 37 CFR § 1.137(b) " filed 19 September 2002 with the United States Patent and Trademark Office (USPTO). Applicant included the $640.00 small entity petition fee.

BACKGROUND

On 09 June 2000, applicant filed international application PCT/AU00/00656, which claimed priority of an earlier application filed 10 June 1999. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 December 2001.

On 10 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by payment of the full U.S. Basic National Fee; a copy of the International Search Report and a First Preliminary Amendment. An oath or declaration of the inventors was not included.

On 04 February 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of $65.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 04 September 2002, the application became abandoned as to the United States for failure to respond to the "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) mailed 04 February 2002.

On 19 September 2002, applicant filed the present petition accompanied by: a check in the amount of $640.00 as payment of the petition to revive fee; an executed combined declaration and power of attorney and a check in the amount of $65.00 as payment of the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1), the required reply was submission of compliant oath or declaration. Applicant has included the combined declaration and power of attorney along with the present petition.

As to Item (2) the appropriate petition fee of $640.00 as required by 37 CFR 1.17(m) has been submitted.

With regard to Item (3), applicant's statement that, "the entire period of delay in meeting the outstanding requirements for entry into the U.S. National Phase of the above-identified P.C.T. application was unintentional was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

For the reasons stated above, the petition for revival is **GRANTED**.

This application has an international application filing date of 09 June 2000 and will be

given a date of **19 September 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for further processing in accordance with this decision.

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Paper No.

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

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JAN 31 2007

OFFICE OF PETITIONS

In re Patent No. 7,135,607	:	DECISION ON REQUEST
Nakamura et al.	:	FOR
Issue Date: November 14, 2006	:	RECONSIDERATION OF
Application No. 10/009,950	:	PATENT TERM ADJUSTMENT
Filed: December 14, 2001	:	and
Atty Docket No. 31671-176197	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed October 13, 2006. Applicants request that the determination of patent term adjustment be corrected from zero (0) days to seven hundred twenty-seven (727) days.

The application for patent term adjustment is GRANTED to the extent indicated herein.

Prior to this decision being issued, on November 14, 2006, the application matured into U.S. Patent No. 7,135,607, with a revised patent term adjustment of 364 days. Accordingly, the patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of six hundred fifty-seven **(657)** days.

On July 14, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed prior to (at the same time as)

the payment of the Issue Fee[1]. Applicants request reconsideration of the patent term adjustment on the basis that the Office misplaced the response to restriction filed on April 10, 2003, and on the basis of the Office having failed to issue the patent within three years. Accordingly, applicants assert that the reduction of 293 days associated with the resubmission of the misplaced April 10, 2003 on March 30, 2004 is unwarranted. In support thereof, applicants submitted a copy of the response as filed on April 10, 2003. Further, because the response was actually filed on April 10, 2003, applicants contend that a period of adjustment of 305 days for Office delay in not acting in response until May 18, 2004 should be entered.

Applicants state that this application is not subject to any terminal disclaimers.

Applicants are correct that periods of reduction and/or adjustment should be associated with the filing of their response on April 10, 2003, not March 30, 2004. A review of the record confirms that the submission on March 30, 2004 was a resubmission of the April 10, 2003 with an adequate showing of timely original receipt in the Office on April 10, 2003 (i.e., an itemized and date-stamped receipt). This was within three months of the mailing of the restriction requirement. Thus, the period of reduction of 282 days, pursuant to 37 CFR 1.704(b), is unwarranted and is being removed.

Likewise, entry of a period of adjustment, pursuant to 37 CFR 1.702(a)(2), for the Office taking in excess of four months to respond to receipt of the election on April 10, 2003 is warranted. However, the period of adjustment is 282 days (not 305 days) counting the number of days in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed, August 11, 2003 and ending on the date of mailing of an action under 35 U.S.C. 132, May 18, 2004.

However, given the correction, the entry of a period of adjustment of 675 days for the Office taking in excess of three years to issue the patent is incorrect. It is noted that the instant patent issued 3 years and 700 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the

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[1] PALM records indicate that the Issue Fee payment was also received on October 13, 2006.

application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). Previously, only 25 days had been entered for Office delay prior to issuance of the patent. Accordingly, upon issuance of the patent, an additional 675 days was entered for the non-overlapping days attributable to the delay in issuance of the patent. With the corrections, the period of delay of 700 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 307 days attributable to grounds specified in § 1.702(a)(1) and (2). Thus, only an additional period of adjustment of 393 days, not 675 days is warranted.

In view thereof, the patent should have issued with a revised patent term adjustment of six hundred fifty-seven (657) 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 six hundred fifty-seven **(657)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,135,607 B1

DATED : November 14, 2006

INVENTOR(S) : Nakamura et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (364) days

Delete the phrase "by 364" and insert – by 657 days--

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30 SEP 2003

Pendorf & Cutliff
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In re Application of	:	
ROITSCH	:	
Application No. 10/009,966	:	DECISION ON
PCT No.: PCT/DE00/01944	:	
Int. Filing Date: 13 June 2000	:	PETITION UNDER
Priority Date: 12 June 1999	:	
Atty. Docket No.: 3524/012	:	37 CFR 1.137(b)
For: Promoter System And Production	:	
And Use Of The Same	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 09 June 2003.

BACKGROUND

This international application was filed on 13 June 2000, claimed an earliest priority date of 12 June 1999, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. On 21 December 2000, the International Bureau transmitted a copy of the published international application to the USPTO. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 12 December 2001.

On 12 December 2001, applicant filed inter alia the basic national fee.

On 01 March 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of a computer readable form (CRF) of the "sequence listing" in compliance with 37 CFR 1.822 and/or 1.832, an initial or substitute paper copy or compact disc of the "sequence listing," and an amendment directing its entry into the specification; and $249 in additional claims fees.

On 03 June 2002, applicant filed a "Response To Notification of Missing Requirements Under U.S.C. 371."

On 29 July 2002, a Notification Of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of a computer readable form (CRF) of the "sequence listing" in compliance with 37 CFR 1.822 and/or 1.832, an initial or substitute paper copy or compact disc of the "sequence listing," and an amendment directing its entry into the specification; and $249 in additional claims fees. This international application became abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements and the Notification of Defective Response.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied inter alia by a CRF which was not in compliance with 37 CFR 1.822 and/or 1.832. Therefore, the required reply has not been filed.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Any renewed petition must be filed within **TWO MONTHS** of the mailing date of this decision and should be entitled "Renewed Petition Under 37 CFR 1.137(b)." Extension of time under 37 CFR 1.136(a) is available.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
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enc: copy of Raw Sequence Listing Error Report

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#9

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In re Application of	:	
ROITSCH	:	
Application No. 10/009,966	:	DECISION ON
PCT No.: PCT/DE00/01944	:	
Int. Filing Date: 13 June 2000	:	PETITION UNDER
Priority Date: 12 June 1999	:	
Atty. Docket No.: 3524/012	:	37 CFR 1.137(b)
For: Promoter System And Production	:	
And Use Of The Same	:	

This is in response to the renewed petition under 37 CFR 1.137(b) filed on 02 February 2004.

DISCUSSION

On 30 September 2003, a decision on petition was mailed to applicant, treating a petition under 37 CFR 1.137(b) filed on 09 June 2003. That petition was dismissed without prejudice because applicant had not provided the required reply in that the computer readable form (CRF) was not in compliance with 37 CFR 1.822 and/or 1.832. The instant renewed petition was accompanied by an acceptable CRF. As such, all of the requirements of 37 CFR 1.137(b) have now been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **12 December 2001**.

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MAILED

JUL 0 5 2005

Technology Center 2100

In re Application of:
Joyner et al.
Application No. 10/010,004
Filed: December 7, 2001
For: SYSTEM AND METHOD FOR PROVIDING ENCRYPTED DATA TO A DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 04, 2005 and the supplemental Requests to Withdraw filed on May 20, 2005 and May 23, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: Joe B. Vaughn
2905 Hastings Way
Flower Mound, Texas 75022-5167

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

Patent Legal Department / A-42-C
Beckman Coulter, Inc.
4300 N. Harbor Blvd.
Box 3100
Fullerton, CA 92834-3100

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DEC 1 9 2003

OFFICE OF PETITIONS

In re Application of :
Kurt L. Brillhart et al. :
Application No. 10/010,005 : ON PETITION
Filed: December 7, 2001 :
Attorney Docket No. 2036-039 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 27, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center AU 1641 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Hogan & Hartson
Biltmore Tower
500 South Grand Avenue, Suite 1900
Los Angeles, CA 90071

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Master et al.	:	
Application No. 10/010,018	:	DECISION GRANTING PETITION
Filed: December 5, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. QST-016/1826P	:	

This is a decision on the petition, filed August 25, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on December 4, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of February 12, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2686.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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SEP 0 1 2005

OFFICE OF PETITIONS

Discovision Associates
Intellectual Property Development
PO Box 19616
Irvine CA 92623

In re Application of :
:
Lamkin et al. : DECISION GRANTING APPLICATION
Application No. 10/010,078 :
Filed: November 2, 2001 :
Attorney Docket No. IA 1500.01A

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.705" timely[1] filed on October 26, 2004 requesting that the Office adjust the PTA calculation at the time of the mailing of the notice of allowance from a determination of two hundred and ninety (290) days to a determination of three hundred and sixty-two (362) days.

Applicants' application is **GRANTED.** The Office will adjust the PAIR calculation to reflect that the value at the time of the mailing of the notice of allowance is THREE HUNDRED AND SIXTY-TWO (362) days

Applicants assert that the Office erred in assessing a one hundred and forty-one day reduction for the response to the notice to file missing parts on January 14, 2002. Applicants assert that the response was completely filed as of July 2, 2002, date of filing of the requisite fees and not September 12, 2002 as determined by the Office. Accordingly, applicants assert that the reduction pursuant to 37 CFR 1.704(b) should have been sixty-nine days(69) days not one hundred and forty-one days. Applicants did not dispute the four hundred and thirty-four (434) days of Office delay pursuant to 37 CFR 1.702(a) (1) nor dispute the three day reduction assessed for applicant delay under 37 CFR 1.704(b). Overall, applicants believe that the correct amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixty-two (362) days (434- (3+69) = 362).

Applicants arguments are persuasive. Specifically, applicants are correct in that the response to the notice to file missing parts was complete on July 2, 2002 not September 12, 2002. Accordingly, the reduction for overdue three month reply to the notice should have been sixty-nine (69) days and not one hundred and forty-one (141) days. Accordingly, applicants correct amount of PTA at the time of the mailing of the notice of allowance is three hundred and sixty-two (362) days as noted by applicants.

After the mailing of this decision, the Office will forward the application to the Office of Patent Publications for a prompt issuance of the application. The Office notes that any delays in issuing

[1]Issue fee paid on 12-22-2004.

the application within four months of the payment of the issue fee and other requirements being satisfied will be added at the time of the issuance of the patent.

The Office will assess the $200.00 fee to Deposit Account 04-1175. No additional fees are required by this decision..

Any questions concerning this application should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Karin Ferriter
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

cc; Adjusted Pair Calculation

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/20/2010

Applicant	: Didier Trono	: DECISION ON REQUEST FOR
Patent Number	: 7575924	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/010,081	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/09/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1112** 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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David P. Lhota. Esq.
Stearns Weaver Miller Weissler Alhadeff & Sitterson, PA
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, FL 33301

Paper No. 9

In re Application of	:	DECISION ON PETITION
Ing Jan Turina	:	TO WITHDRAW
Serial No. : 10/010,090	:	HOLDING OF
Filed : December 6, 2001	:	ABANDONMENT
For : Nail File Device	:	

This is a decision on petitioner's letter filed September 30, 2003, which letter is being treated as a petition/request to review the holding of abandonment mailed September 24, 2003, for failure to respond to the Office action mailed March 18, 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 three-month extension of time request, and a copy of a PTO stamped receipt dated September 22, 2003. The September 22, 2003 communication included a certificate of mailing dated September 18, 2003.

In view of the above, the Notice of Abandonment mailed September 24, 2003 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 filed September 22, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/10/22/03

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HOWSON AND HOWSON
CATHY A. KODROFF
ONE SPRING HOUSE CORPORATE CENTER
BOX 457
SPRING HOUSE PA 19477

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MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Raymond H. Boutin :
Application No. 10/010,114 : DECISION ON PETITION
Filed: November 13, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AHP1CUSA :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 5, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/314,060, filed September 28, 1994.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on November 13, 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 benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 1632 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 08/314,060, filed September 28, 1994.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080415

DATE : April 15, 2008

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction on Patent No.: 7202227

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:

SPE: /Peter Paras, Jr./ Art Unit 1632

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#11

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

In re Application of	:	
Sam F. Liprie	:	
Application No: 10/010,143	:	DECISION ON PETITION:
Filed: November 7, 2001	:	WITHDRAWAL FROM ISSUE
Title: Afterloader Apparatus	:	

The above-identified application is hereby withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR 1.313(a).

The above-identified application is hereby withdrawn from issue.

PTO records reveal that the issue fee has not been paid. If the fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the Examiner for action.

John E. Kittle
Director
Technology Center 3700/2900

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KENDAL M. SHEETS
CPA GLOBAL
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

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APR 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,043,524 :
Issued: May 9, 2006 :
Application No. 10/010,147 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No: **7053424** :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed February 25, 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.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.

Finally, there is no indication that petitioner herein was ever empowered to handle matters related to this patent. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). This decision will be mailed to petitioner, however, all future correspondence will be mailed solely to the correspondence address of record. If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,732,425	2004-05-11	10/010,152	2001-11-08	103-0005 (was OO 00-06)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sean P. O'Hanlon/	Date (YYYY-MM-DD)	2010-02-15
Name	Sean P. O'Hanlon	Registration Number	47252

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. 6732425
Issue Date: May 11,2004
Application No. 10010152
Filed: November 8,2001
Attorney Docket No. OO 00-06

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 15,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

OIPE JC61
DEC 17 2004
PATENT & TRADEMARK OFFICE

Attorney Docket No. SHA196-156234

AF/3653

Attorney Docket No.: SHA196-156234

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPROVED

In Re: Justin Sharaf

Serial No.: 10/010, 159 Examiner: Rodriguez, Joseph C.

Filing Date: November 13, 2001 Art Group: 3653

For: **MAGNET STRUCTURES FOR TREATING LIQUIDS AND GASES**

Assistant Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an Envelope addressed to Assistant Commissioner for Patents, Washington DC 20231

on: December 6, 2004

by: Laura C. Forrest

Name (printed): Laura C. Forrest

REQUEST FOR WITHDRAWAL AS ATTORNEYS

I, an attorney signing below, respectfully request permission to withdraw from all further responsibility in this case, in accordance with 37 C.F.R. § 1.36.

1. The reason for this request is the Applicant has failed for an unreasonable amount of time to pay one or more bills rendered by me. Applicant's failure to pay one or more bills for an unreasonable amount of time is a proper reason for the withdrawal as enumerated in 37 C.F.R. 10.40(b).

2. The Applicant has been duly notified of the withdrawal as provided by the patent rules. Applicant was notified of the attorneys' withdrawal from representation by letter of October 14, 2004, to Applicant's last known address, and Applicant was asked to contact the attorneys if Applicant wished to prevent the attorneys from withdrawing. Applicant has not contacted the attorneys.

3. The attorneys of record have sent the Applicant all communications to and from the United States Patent and Trademark Office during their representation of the Applicant. This Request for Withdrawal as Attorneys was sent Federal Express (FedEx tracking No. 8455 7389 8291), on December 6, 2004.

4. This Petition applies to all attorneys of record, namely Robert F. Zielinski, Esq. (Reg. No. 34,286), Kenneth R. DeRosa, Esq. (Reg. No. 39,549), Richard P. Gilly, Esq. (Reg. No. 37,630), Stuart D. Rudoler, Esq. (Reg. No. 49,059), Eric A. Dichter, Esq. (Reg. No. 41,708), and Richard C. Weinblatt, Esq. (Reg. No. 45,500). Richard C. Weinblatt is signing for himself and on behalf of all the other attorneys of record.

5. The outstanding Office Action has a final response date of March 13, 2005. Accordingly, the attorneys of record believe there is sufficient time for this request to be approved at least thirty (30) days prior to this deadline. There is thus no prejudice to the Applicant.

This request is enclosed in triplicate.

Respectfully submitted,

Date: Dec 6 04

Robert F. Zielinski, Esq., Reg. No. 34,286
Wolf, Block, Schorr and Solis-Cohen LLP
1650 Arch Street
22nd Floor
Philadelphia, PA 19103-2097
Phone: 215-977-2544
Facsimile: 215-405-2544

Date: December 6, 2004

Richard C. Weinblatt, Esq., Reg. No. 45,400
Wolf, Block, Schorr and Solis-Cohen LLP
1650 Arch Street
22nd Floor
Philadelphia, PA 19103-2097
Phone: 215-977-2348
Facsimile: 215-405-3948

Date: Dec 06 04

Robert F. Zielinski, Esq., Reg. No. 34,286
on behalf of
Kenneth R. DeRosa, Esq., Reg. No. 39,549
Richard P. Gilly, Esq., Reg. No. 37,630
Stuart D. Rudoler, Esq. Reg. No. 49,059
Eric A. Dichter, Esq., Reg. No. 41,708

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

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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JUN 2 5 2002

OFFICE OF PETITIONS

In re Application of
Hshieh, et al.
Application No. 10/010,162
Filed: November 20, 2001
Attorney Docket No. GS 149

: DECISION GRANTING
: PETITION

This is a decision on the correspondence entitled, "PETITION TO CORRECT THE FILNG DATE UNDER 37 CFR 1.183," filed April 9, 2002, (certificate of mailing date April 4, 2002) requesting that the above-identified application be accorded a filing date of November 20, 2001, instead of the presently accorded date of December 10, 2001. The petition will be treated under 37 CFR 1.6(e).

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail was refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

In accordance with the O.G. Notice and 37 CFR 1.6(e), petitioners have mailed the USPTO a copy of the correspondence by first class mail with a statement by the person who originally deposited the correspondence with the USPS by Express Mail, Marjorie Scariati, Patent Paralegal.. The properly signed and dated statement declares that Ms. Scariati attempted to deposit the correspondence into Express Mail on November 20, 2001, but the USPS refused to accept it.

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 20, 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS .

In view of the above, the petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2001. Thereafter, the application will be forwarded to Technology Center Art Unit 2812 for examination in due course.

Telephone inquiries concerning this matter should be directed to Petitions Attorney E. Shirene Willis at (703)308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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JUL 03 2002

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of
Roninson, et al.
Application No. 10/010,167
Filed: December 10, 2001
Attorney Docket No. 93,354-SS

DECISION DISMISSING PETITION

This is a decision on the March 29, 2002 petition requesting that the January 22, 2002 "Notice to File Corrected Application Papers" in the above-identified application be withdrawn.

Applicant filed this above-cited application on December 10, 2001. However, on January 22, 2002, the Office mailed a "Notice to File Corrected Application Papers" stating that the application had been accorded a filing date of December 10, 2001 and advising applicants that the drawing of Figures 1K and 1L described in the specification appeared to have been omitted.[1]

In response, applicants filed the present petition, a $130.00 petition fee, the fulfillment of the sequence listing requirement under 1.821, this petition to include inadvertently omitted drawings, a substitute specification and drawings, and a request for a corrected filing receipt. Applicants explain that the application indicated the entire disclosure of the prior application is considered as being part of the disclosure of the application and that the entire disclosure of the prior application was expressly incorporated by reference. Applicants state that the missing figures were part of the prior application.

However, it appears that the Figures 1K and 1L were not present on the filing of the above-identified application. Accordingly, the "Notice to File Corrected Application Papers" mailed on January 22, 2002 was correct in stating that Figures 1K and 1L described in the specification had been omitted. Therefore, the "Notice to File Corrected Application Papers" was properly mailed and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee will not be refunded because the present petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

It is noted that the application transmittal letter identified this application as a divisional application of prior application No. 09/568,315, filed May 9, 2000, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior

[1] The notice also noted that the papers did not contain proper margins. In addition to the missing figures, the notice required a substitute specification, a copy of a computer readable formatted sequence listing, and a statement that it the sequence listing information is the same as that on the computer readable format and that it contains no new matter.

application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figures 1K and 1L is not new matter if it was a part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 10, 2001 in accordance with this decision.

Thereafter, the application will be forwarded to Technology Center 1600 for consideration by the examiner of the petition filed this petition as an amendment requesting the entry of Figures 1K and 1L.

Any inquiries related to this decision should be directed to Attorney Scott M Ledford at (703) 306-5593.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 06 02 06

DATE : May 15, 2006

TO SPE OF : ART UNIT 1636 (S.P.E. Irem Yucel)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/010167 Patent No.: 6,982,313

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Please see the sequence listing.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 1636

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

COPY MAILED

FEB 14 2006

Director's Office
Office of Patent Publication

In re Application of :
E SCOTT PRIESTLEY, et al. :
Application No. 10/010,184 : **DECISION ON PETITION**
Filed: December 6, 2001 :
Attorney Docket No. PH-7087-A :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on January 24, 2006

The petition is **DISMISSED.**

The application was held abandoned for failure to timely pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed May 20, 2005, which set a three (3) month statutory period for reply. The Notice of Abandonment was mailed on November 11, 2005.

Petitioner states that:

The Issue Fee was paid on January 7, 2005

Applicant submitted an Amendment under § 312 on May 3, 2005, which was considered and entered by the Examiner

A Supplemental Notice of Allowance was mailed to the Applicant on May 20, 2005

The USPTO acknowledges receipt of Part B - Fee(s) Transmittal on January 7, 2005. As authorized, the Issue Fee of $1,400, $300 for the Publication fee, and $30 for ten (10) Advance Order Copies were charged to Deposit Account No. 19-3880 on January 7, 2005.

However, a new Notice of Allowance and Fee(s) Due, with Part B – Fee(s) Transmittal were mailed on May 20, 2005.

The new Notice of Allowance clearly indicated in bold text:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Although no fee was due, as indicated on the form PTOL-85B, Part B – Fee(s) Transmittal mailed on May 20, 2005, the Applicant was required to return the form. Since the form was never returned the application was regarded as abandoned by operation of law on midnight August 22, 2005.

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 ***unavoidably*** abandoned application
- Under 37 CFR § 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further correspondence with respect to the petition for revival under 37 CFR § 1.137 should be directed to the Office Of Petitions at 703-305-9282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner For Patents
Office of Petitions
P. O. Box 1450
Alexandria, VA 22313-1450

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Patent Publications at 703-308-9250.

Thomas Hawkins
Paralegal Specialist
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

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON, NJ 08543-4000

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of Priestly et al. :
Application No. 10/010,184 : Decision on Petition
Filing Date: December 6, 2001 :
Attorney Docket No. PH-7087-A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to properly reply to the Notice of Allowance mailed May 20, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 21, 2005. A Notice of Abandonment was mailed on November 11, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will take steps to have the application issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

JUN 18 2003

PAPER NO. 7

In re Application of :
Barbara H. Minor et al. :
Serial No:10/010,187 : PETITION UNDER
Filed: December 06, 2001 : M.P.E.P. 708.02, IV
For: REFRIGERANT COMPOSITIONS CONTAINING :
A COMATIBILIZER :

This is in response to the petition filed March 28, 2003, 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.**

4,944,890

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

E I DU PONT DE NEMOURS & COMPANY
Legal Patent Records Center
Barley Mill Plaza 25/1128
4417 Lancaster Pike
Wilmington, DE 19805

Pick 1 compat i - vi
1 process 4 5 6, 10

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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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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APR 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Walter Mahler :
Application No. 10/010,187 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. FL-1068 US NA :

This is a decision on the petition under 37 CFR 1.313(c), filed March 29, 2005, which is being treated under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 10, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1751 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOERST STREET
MARLBOROUGH MA 01752

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Hideki Tsuchida et al	:	
Application No. 10/010,193	:	DECISION GRANTING
Filed: December 5, 2001	:	PETITION
Attorney Docket No. 51334	:	

This is a decision on the petition filed July 23, 2002, requesting that the above-identified application be accorded a filing date of December 5, 2001, rather than the presently accorded date of December 6, 2001. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on December 5, 2001, pursuant to 37 CFR 1.10. Petitioner is alleging that the accorded date of mailing of December 6, 2001, is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is December 5, 2001. Petitioner have supplied a copy of the Express Mail Log that came into being within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the U.S.P.S., to verify the deposit date of December 5, 2001 for Express Mail label number ET755554034US. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on December 5, 2001, as shown by the copy of the Express Mail Log submitted with the instant petition. Accordingly, this application is entitled to a filing date of December 5, 2001, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to December 5, 2001, and for issuance of a corrected filing receipt**. Afterwards, the application will be forwarded to Technology Center AU 1773.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3208. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Karen Creasy

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
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ROHM AND HAAS ELECTRONIC MATERIALS LLC
455 FOREST STREET
MARLBOROUGH MA 01752

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JUN 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Hideki Tsuchida et al :
Application No. 10/010,193 : DECISION ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 51334 :

This is a decision on the petition, filed March 19, 2004, and resubmitted on January 23, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of May 27, 2003, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 27, 2003.

Petitioner states that a timely reply was mailed via certificate of mailing on July 11, 2003, which included the following papers: An amendment and response to the Office Action dated May 27, 2003; Copy of papers previously filed to correct the filing date; and a copy of the return receipt postcard. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated July 11, 2003, which would have rendered the reply timely if received.

Petitioner should be aware that the papers submitted on March 19, 2004 and the copy of the papers submitted on January 23, 2007 reference Application No. 10/010,913 instead of Application No. 10/010,193.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 27, 2003 is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on July 11, 2003.

This application is being referred to Technology Center AU 1773 for appropriate action in the normal course of business on the reply received with petition.

Karen Creasy

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

M. John Carson, Esq.
FULBRIGHT & JAWORSKI LLP
29th Floor
865 S. Figueroa Street
Los Angeles CA 90017

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JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 6,408,151 :
Issue Date: June 18, 2002 :
Application No. 10/010,222 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 6347-138N1 :

This is a decision on the petition filed August 19, 2003, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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 petition fee of $130 has been charged to petitioner's deposit account No. 02-1010 as authorized in the petition.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JEROME L. JEFFERS, ESQ.
BAYER CORPORATION
P.O. BOX 40
ELKHART, IN 46515-0040

COPY MAILED

FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Brenneman et al.	:	
Application No. 10/010,233	:	ON PETITION
Filed: December 7, 2001	:	
Attorney Docket No. MSE #2616	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed August 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 13, 2004. A Notice of Abandonment was mailed on December 2, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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GENENTECH, INC.
1 DNA WAY
SOUTH SAN FRANCISCO, CA 94080

COPY MAILED

JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of :
CARTER, et al. :
Application No. 10/010,245 : DECISION ON PETITION
Filed: December 7, 2001 : TO WITHDRAW
Attorney Docket No. **P0927C2** : 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 24, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **GENENTECH, INC.** has been revoked by the assignee of the patent application on February 14, 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: **MORRISON & FOERSTER, LLP**
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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Date: 01/31/08

Patent No. : 7232445 B2
Ser. No. : 10/010,247
Inventor(s) : KORTENBACH, JUERGEN A.
Issued : 06/19/07
Title : **APPARATUS FOR THE ENDOLUMINAL TREATMENT OF GASTROESOPHAGEAL REFLUX DISEASE (GERD)**
Docket No. : **SYN-064B**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE FL 33330

LMN

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MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE FL 33330

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OCT 3 0 2008

OFFICE OF PETITIONS

In re Patent No. 7,232,445 :
Application No. 10/010,247 :
Filed: December 6, 2001 : ON PETITION
Issued: June 19, 2007 :
Attorney Docket No. SYN-064B :

This is a decision on the petition filed February 14, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to change the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner submitted the $130.00 requisite surcharge on both June 29, 2007 and February 14, 2008, when only one payment is necessary. Accordingly, the duplicate $130.00 surcharge will be refunded to petitioner's credit card in due course.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 11

Norman R. Klivans
SKJERVEN, MORRILL, MacPHERSON LLP
Suite 700
25 Metro Drive
San Jose, CA 95110-1349

MAR - 3 2003

In re Application of:	:	
Ogle, *et al.*	:	
Application No. 10/010,280	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: December 05, 2001	:	
For: OXIDIZING PRETREATMENT OF NON LAYER FOR FLASH MEMORY	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 10, 2003.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period that can be extended under 37 C.F.R. § 1.136(a).

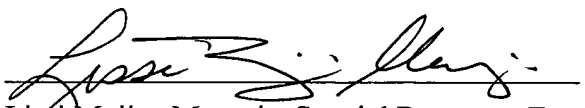
The request meets all the above requirements. The request was signed by Norman R. Klivans, an attorney of record in the above identified application. On November 29, 2002, the Office mailed a final Office Action setting forth a three-month shortened statutory period for reply that is extendable by petition under 37 C.F.R. § 1.136(a) through May 29, 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 Mike Farjami, 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: Mike Farjami
Farjami & Farjami
16148 Sand Canyon
Irvine, CA 92618

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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

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SEP 2 3 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ogle, et al. :
Application No. 10/010,280 :
Filed: December 5, 2001 :
Attorney Docket No. 0180163 :
For: PRETREATMENT OF ONO LAYER FOR FLASH MEMORY

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 19, 2004 (certificate of mailing date April 15, 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 properly reply to the final Office action, mailed November 29, 2002. Petitioners filed an amendment after final on February 11, 2003. The amendment after final failed was misplaced and petitioner had to re-submit the amendment on April 23, 2004. The examiner of record reviewed the amendment after final and determined that it did not place the application in *prima facie* condition for allowance, as was explained in the March 17, 2004, an Advisory Action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (3).

Regarding (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only

where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

In the instant case, petitioners have failed to provide adequate evidence that the delay was unavoidable. Petitioners assert that the entire delay was caused by the PTO misplacing the February 11, 2003 amendment after final. This resulted in the amendment being reviewed and not entered *after* the extendable period for reply had expired. Thus, petitioners argue they were unavoidably delayed from filing a timely and proper reply because they did not receive an Advisory Action until after the period of reply had expired.

Petitioners are reminded that after a final action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (4) an RCE. To be a proper reply, an amendment after final must eliminate all of the Examiner's objections and rejections, and thus place the case in *prima facie* condition for allowance.

Petitioners' amendment after final failed to eliminate all of the Examiner's objections and rejections, as was stated in the Advisory Action of March 17, 2004.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to

appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Petitioners are reminded that an Advisory Action is mailed as a courtesy and does not start a new period for response. The application became abandoned because petitioners did not submit a proper reply to the final Office action.

The abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 USC 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a Notice of Allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

While the misplacement of the February 11, 2003 amendment after final is unfortunate, it does not shift the burden of ensuring that a proper reply is timely filed from the applicant to the PTO.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Petitioners request revival under the unintentional standard of 37 CFR 1.137(b) in the alternative.

Petitioners have submitted (1) an amendment, dated March 24, 2004, which places the application in *prima facie* condition for allowance, (2) an acceptable statement regarding the unintentional delay that resulted in abandonment, and (3) the petition fee.[1]
The petition under 37 CFR 1.137(b) is **GRANTED.**

After the mailing of this decision, the application will be returned to Technology Center Art Unit 2814.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712. Please call (571) 272-3230 after September 27, 2004.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] Petitioners' deposit account will be charged the current large entity 1.137(b) petition fee - $1,330.00.

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Paper No. 4

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

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APR 16 2002

OFFICE OF PETITIONS

In re Application of :
Hegli, et al. :
Application No. 10/010,282 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No.: WEBSEN.030A :
For: FILTERING TECHNIQUES FOR :
MANAGING ACCESS TO INTERNET SITES :
OR OTHER SOFTWARE APPLICATIONS :

This is a decision on the petition filed February 15, 2002 requesting that Figure 6 be included in the above-identified application as having been present upon filing on December 5, 2001.

The application was deposited December 5, 2001. A Notice of Omitted Items(s) in a Nonprovisional Application ("Notice") was mailed on January 3, 2002. The Notice indicated that a filing date had been granted but that figure 6 as described in the specification appeared to have been omitted from the application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner argues that the application deposited December 5, 2001 included six (6) pages of formal drawings, including Figure 6, as indicated on the Office date-stamped return postcard, a copy of which petitioner has provided.

The original Figure 6 submitted with the application papers has not been located. However, in view of the evidence presented, the petition to include Figure 6 in the application is **GRANTED**.

The petition fee of $130.00 submitted with the instant petition is unnecessary. As per the authorization contained therein, a refund to deposit account No. 11-1410 has been requested from the Office of Finance, Refund Section.

Since the original Figure 6 cannot be located in the Office, the

copy supplied with the instant petition will be used for examination purposes.

This application will be forwarded to Office of Initial Patent Examination for further processing with a filing date of December 5, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Janis K. Fraser
Fish & Richardson
225 Franklin Street
Boston, MA 02110

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of :
Carl-Axel Bauer et al. :
Application No.: 10/010,283 :
Filed: November 13, 2001 : DECISION ON PETITION
Attorney Docket No.: 06275-150003/D1842-3PU :
For: NEW USE FOR BUDESONIDE AND FORMOTEROL :

This is a decision on the petition under 37 CFR 1.78(a)(3) filed November 04, 2005 and Supplemental Petition filed March 15, 2006 to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) 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 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 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 applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this 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 Anthony Smith, Attorney Advisor, at (571) 272-3298. 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 1617 for appropriate action on the amendment filed November 04, 2005, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed applications.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

Matthew R. Schantz
Woodward Emhardt Naughton Moriaty & McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

In re Application of :

Ray Charles Davis et al. :
Application No. 10/010,303 : DECISION ON PETITION
Filed: November 13, 2001 : TO WITHDRAW
Attorney Docket No. 584-0060US : 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 7, 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 Troy J. Cole on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ray Charles Davis**
7710 Oxfordshire
Spring City, TX 77379

cc: **Keith Lutsch, Esq.**
Wong, Cabello, Lutsch, Rutherford & Brucculeri, LLP
20333 SH 249, Suite 600
Houston, TX 77070

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
10/010,303	11/13/2001	Ray Charles Davis	584-0060US

CONFIRMATION NO. 8722

OC000000026012746

Matthew R. Schantz
Woodard Emhardt Naughton Moriaty & McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Date Mailed: 09/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/07/2007.

- 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.

Y. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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SEP 15 2006

KENSEY NASH CORPORATION
735 PENNSYLVANIA AVENUE
EXTON, PA 19341

In re Application of	:
Timothy Ringeisen	:
Serial No.: 10/010,304	: SUSPENSION OF ACTION
Filed: November 8, 2001	:
Attorney Docket No.: KN P-0020	:

This is in reply to the petition under 37 CFR 1.103 to suspend action in this application at applicant's request for a period of four months, filed July 13, 2006. This is also in reply to applicant's petition under 37 CFR1.181 to compel issuance of the above identified application. Both petitions are properly before the Technology Center Director for Technology Center 1600.

BACKGROUND

On August 10, 2005, Examiner Spear mailed a non-Final Office action to applicants in which claims 1-5, 11-13, 15-17, 25-27 and 29-32 were rejected under 35 U.S.C. 102(b) over either of Reischl et al or Einstman. Claims 6-10, 14, 18-24 and 28 were objected to as dependent from a rejected claim, but otherwise allowable. Examiner Spear retired shortly after issuing the Office action and the application was reassigned to Examiner Silverman.

Applicant replied to the Office action on November 10, 2005, amending claims 6-10, 14, 18-24 and 28 and canceling all other claims. Applicant believed this would place the application in condition for allowance.

On January 13, 2006, Examiner Silverman issued a new Office action rejecting all pending claims over art of record. Claims 8, 10, 23 and 24 were rejected under 35 U.S.C. 102(b) as anticipated by Dunn et al. Claims 6-7, 9 and 18-23 were rejected under 35 U.S.C. 103(a) as obvious over Einstman et al in view of Helmus and Le Noane. Claims 14 and 28 were rejected under 35 U.S.C. 103(a) as obvious over Dunn et al in view of Reischl et al.

On May 18, 2006, applicant replied asking for reconsideration of the examiner's action, but not addressing any of the rejections of record other than to imply that they had previously been withdrawn with respect to the now rejected claims by the previous examiner. A Notice of Non-Compliant amendment was mailed to applicant on June 13, 2006, indicating the amendment was non-responsive for failure to address the rejections of record.

Applicant replied on July 13, 2006, basically repeating the substance of the previous response and filed the two petitions noted above.

DISCUSSION

Applicant appears to be of the opinion that each of these petitions is decided by the Office of Petitions. However, petitions directed to an examiner's action are normally delegated to the Technology Center Director for decision. Thus these two petitions are properly before the Director of Technology Center 1600.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants give as a reason for requesting suspension that it is needed in order for the Petitions Branch to decide the petition. Such is an improper reason for granting a suspension of action. The mere filing of a petition will not stay the period for applicant's reply nor does it take the place of applicant's reply. In general an Office action will not be issued by an examiner where there is an undecided petition. Thus a petition for suspension of action is unnecessary and, in this instance is moot inasmuch as a decision is being rendered within two months of the petition being filed. The petition to suspend is Denied.

The petition to compel the examiner to issue this application is also improper. Applicant complains that the new examiner did not follow Office guidelines (and did not use the proper Form Paragraphs) in withdrawing the allowance of dependent claims amended to be independent claims and which were indicated as potentially allowable if they included all of the limitations of the claims from which they depended by the previous examiner.

Applicant cites part of M.P.E.P. 706.04 for support which indicates that an examiner newly assigned to an examined application should give full faith and credit to the previous examiner's search and actions and should not initiate a new search in the hope of finding something new. Applicant is correct in this statement. However, an examiner taking up a previously examined application is required to familiarize him/herself with the application and references of record and is required to assess patentability of the claims based thereon. Such assessment extends to claims allowed or indicated allowable by the previous examiner. In this particular application dependent claims were indicated allowable. These claims were then rewritten by applicant as independent claims which were to include all limitations of the claims from which they depended. (An analysis of whether they do or not has not been made.) Having reviewed the specification and claims the examiner updated the search of the previous examiner, as required, and then turned to the prior art of record to determine whether the newly written claims were patentable thereover. The examiner determined they were not and set forth appropriate rejections supported by required reasoning and argument. The rejections set forth were not the same as set forth by Examiner Spear in the previous Office action, however the claims were not the same either. That the examiner failed to use a specific form paragraph indicating withdrawal of the allowance of previously allowed claims is a matter of form, not substance. Contrary to applicant's argument, the omitted paragraph, even if included, would not have required the examiner to utilize new references in drafting the rejections set forth. Applicant argues in the

petition that the only claims now rejected were previously rejected over the references now applied which rejections were earlier overcome and withdrawn by Examiner Spear. Whether this is correct or not, a new examiner assigned to a previously examined application must make his/her own determination of the patentability of the claims in view of the prior art of record. Where that determination differs from the previous examiner's determination consultation with a primary examiner is required. As is noted in this application, the Office action of January 13, 2006, was signed by the examiner of record and a Supervisory Primary Examiner, thus satisfying the requirement applicant notes is forth in the M.P.E.P.

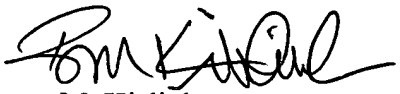
DECISION

In view of the above the petition for suspension of action is **DENIED**.

Further, the petition under 37 CFR 1.181 to compel issuance of this application is also **DENIED**.

It is noted that the reply filed concurrently with this petition still does not address the rejections of record in the Office action of January 13, 2006, and is therefor NON-COMPLIANT. Applicant is given ONE MONTH from the date of mailing of this decision within which to file a compliant reply. NO EXTENSIONS OF TIME UNDER 37 CFR 1.136(a) or (b) WILL BE PERMITTED.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.



Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

ON PETITION

In re Application of
Ken Lang
Application No. 10/010,393
Filed: December 7, 2001
Attorney Docket No. KLQ-001

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 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 within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 3, 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 August 4, 2007. The Notice of Abandonment was mailed December 14, 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)(II)(C) and (D). The instant petition lacks item(s) (1).

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). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(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). Since the $510.00 extension of time fee submitted with the petition on February 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

Enclosed: Advisory Action PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/010,393	Applicant(s) LANG, KEN	
	Examiner Merilyn P. Nguyen	Art Unit 2163	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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 Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-54*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: The proposed amendments of claims 1, 26 and 41 require further consideration and/or search.

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)
6,741,762	2004-05-25	10/010,401	2001-12-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Peter L. Holmes/	Date (YYYY-MM-DD)	2008-11-07
Name	Peter L. Holmes	Registration Number	37353

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6741762
Issue Date: May 25,2004
Application No. 10010401
Filed: December 5,2001
Attorney Docket No. PW-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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)
6,643,419	2003-11-04	10/010,414	2001-12-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Peter L. Holmes/	Date (YYYY-MM-DD)	2008-11-07
Name	Peter L. Holmes	Registration Number	37353

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6643419
Issue Date: November 4,2003
Application No. 10010414
Filed: December 5,2001
Attorney Docket No. PW-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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. 10

KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD, IL 61101

COPY MAILED

MAR 0 2 2004

OFFICE OF PETITIONS

In re Application of
Evans, Paul R.
Application No. 10/010,428
Filed: November 30, 2001
For: Machine For Testing Wear, Wear-Preventative And Friction Properties Of Lubricants And Other Materials

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 20, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 7, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 8, 2003. A Notice of Abandonment was mailed on November 14, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,928,193	2005-08-09	10/010,432	2001-12-05	5594/005

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tiberiu Weisz/	Date (YYYY-MM-DD)	2009-10-12
Name	Tiberiu Weisz	Registration Number	29876

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. 6928193
Issue Date: August 9,2005
Application No. 10010432
Filed: December 5,2001
Attorney Docket No. MARTIN GERSTEN - 15

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 12,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

COPY MAILED

NOV 19 2004

OFFICE OF PETITIONS

In re Application of	:	
Collins, Richard Edward	:	
Application No. 10/010,435	:	ON PETITION
Filed: December 7, 2001	:	
Attorney Docket No. 72523	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 1, 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 November 20, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 21, 2004. A Notice of Abandonment was mailed June 14, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries 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
www.uspto.gov

Paper No. 4

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of
Hshieh et al.
Application No. 10/010,484
Filed: November 20, 2001
Attorney Docket No. GS 150

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.183 to accord the above-identified application a filing date of November 20, 2001, instead of the present filing date of December 10, 2001. The petition will also be treated as a petition filed under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **granted.**

The petition under 37 CFR 1.183 is **dismissed as moot.**

Petitioners attempted to deposit the application in "Express Mail" service with the United States Postal Service (USPS) on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail Service to Washington, DC zip codes 202xx through 205xx. The United States Patent and Trademark Office (Office) designated this interruption in USPS Express Mail Service as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e).

The Office published a notice in the Official Gazette on October 9, 2001, that provides guidance under these circumstances, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

Petitioners have supplied a statement from Mary Scariati declaring that she attempted to deposit the application with the USPS at Westfield, New Jersey via Express Mail Service on November 20, 2001. The USPS refused to accept the package. Ms. Scariati further declares that per the USPTO guidelines posted on the Office website, she redeposited the application papers with the USPS on November 20, 2001, as first class mail, in an envelope addressed to: Assistant Commissioner for Patents, BOX FILING DATE, Washington, DC 20231.

The requirements of the notice set forth in the Official Gazette on October 9, 2001, have been met. Accordingly, the application will be accorded a filing date of November 20, 2001.

The application file is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 20, 2001, and for mailing a corrected filing receipt.

Any inquiries related to this decision should be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

Richard P. Berg, Esq.
c/o LADAS & PARRY
Suite 2100
5670 Wilshire Boulevard
Los Angeles CA 90036-5679

COPY MAILED

NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/010,494 : ON PETITION
Filed: November 12, 2001 :
Attorney Docket No. B-4374 619286-3 :

This is a decision on the petition filed on October 15, 2002, to accord the above-identified application a filing date of November 12, 2001, rather than the presently accorded filing date of November 13, 2001. and to vacate the previous decision mailed July 19, 2002, on the subject petition.

The petition is **granted**.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded or will accord, a filing date based upon an incorrect entry by USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of November 12, 2001.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 12, 2001.

Telephone injuries should be directed to the undersigned at (703)305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 04/20/2010

Applicant	: Brian T. Rosenberger	: DECISION ON REQUEST FOR
Patent Number	: 7568445	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/010,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

MARTINE & PENILLA
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

COPY MAILED

MAY 16 2002

OFFICE OF PETITIONS

In re Application of	:	
Gary Wayne Dunlavy	:	DECISION GRANTING
Application No. 10/010,512	:	PETITION
Filed: December 5, 2001	:	
Attorney Docket No. ADAPP202	:	

This is a decision on the paper styled "PETITION TO THE COMMISSIONER TO CORRECT FILING DATE OF AN APPLICATION" filed March 12, 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 December 5, 2001, rather than the presently accorded filing date of November 5, 2001.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service, on December 5, 2001. In support, petitioner provided a copy of the Express Mail label, receipt no. EJ577837598US, showing a Date-In of December 5, 2001. The same Express Mail receipt number was referred to in the copy of the original application transmittal letter submitted with the instant petition which includes a statement of express mailing under 37 CFR 1.10 dated December 5, 2001. Petitioner request that the application be accorded a filing date of December 5, 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 December 5, 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 December 5, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 14, 2006

TO SPE OF : ART UNIT 2671

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/010524 Patent No.: 6,995,771

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Kee Tung — SPE

2628 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COPY ONLY

EDWARD WELCH II, ESQ.,
PMB 220, P.O. BOX 413005
5400 YAHL STREET, STE. D
NAPLES FL 34101

COPY MAILED

DEC 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Dave Gothard	:	
Application No. 10/010,556	:	
Filed: November 8, 2001	:	
Attorney Docket No. None	:	

This is a decision on the petition, filed November 23, 2004, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of continuing Application No. 10/979,552, filed November 2, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Upon receipt of the file in the Office of petitions, the application will be forwarded to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark J. Sandford.	:	
Application No. 10/010,567	:	ON PETITION
Filed: November 8, 2001	:	
Attorney Docket No. 6783P008	:	

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 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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Document No. 6

John A. Caccuro
9 Ladwood Drive
Holmdel NJ 07733

COPY MAILED

MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Chiussi, et al. :
Application No. 10/010,582 : DECISION ON PETITION
Filed: October 13, 2001 :
Attorney Docket No. 22-1-10 :

This is a decision on the petition under 37 CFR 1.137(b) filed March 17, 2003, to revive the above-mentioned 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 application became abandoned on March 8, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed January 7, 2002, which set a shortened period for reply of two (2) months from its mailing date. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained; the application became abandoned on March 8, 2002.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) above.

The Notice required that petitioner remit $130.00 for the surcharge. This amount was not remitted, nor was an authorization to charge a deposit account for this kind of fee found among the application papers. With any renewed petition filed, petitioner must remit the surcharge or provide a deposit account to which the surcharge can be charged.

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 facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

John A. Caccuro
9 Ladwood Drive
Holmdel, NJ 07733

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of
Chiussi, et al.
Application No. 10/010,582
Filed: October 13, 2001
Attorney Docket No. 22-1-10

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR § 1.137(b), filed March 31, 2003, to revive the above-identified application.

The renewed petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") mailed January 7, 2002, which set forth a two (2) month period for reply. No extensions of time under 37 CFR § 1.136(a) were obtained. Accordingly, this application became abandoned on March 8, 2002. A petition under 37 CFR 1.137(b) was filed on March 17, 2003, but was dismissed by a decision mailed March 25, 2003.

Petitioner responded appropriately to the Notice by remitting on April 2, 2003, the surcharge of $130.00.

The renewed petition under 37 CFR 1.137(b) filed in 10/008,425 is noted, however; a review of the application file did not reveal a first petition under 37 CFR 1.137(b) filed for that application. Petitioner should file a petition under 37 CFR 1.137(b) for 10/008,425 and provide the proper reply to the Notice of Missing Parts that was mailed for that application.

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned, at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

DATE: 8-28-07 APPLICATION NUMBER: 10/010,601

DOC CODE: PET.DEC.TC DOC DATE: _____

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

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1969 KELLOGG AVENUE
CARLSBAD CA 92008

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of Lakkis :
Application No. 10/010,601 : Decision on Petition
Filing Date: December 6, 2001 :
Attorney Docket No. 00280 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 14, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 15, 2006. A Notice of Abandonment was mailed on November 28, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $750. Petitioner has submitted a reply to the non-final Office action mailed April 14, 2006. Petitioner has stated 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 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.

Attorney Peter Martinez signed the petition. Attorney Martinez was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Martinez may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Martinez that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

the delay 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.

Technology Center Art Unit 2616 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 6

PEDERSEN & COMPANY, PLLC
P.O. BOX 2666
BOISE, ID 83701

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MAR 24 2004

OFFICE OF PETITIONS

In re Application of :
Morrison :
Filed: November 8, 2001 : ON PETITION
Application No. 10/010,603 :
Attorney Docket No.: 3089 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned March 30, 2003 for failure to timely submit a proper reply to the non-final Office action mailed January 29, 2003. The non-final Office 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(a) were timely requested. Notice of Abandonment was mailed September 5, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (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 of the reply until the filing of a grantable petition was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely reply to the non-final Office action mailed January 29, 2003 is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

Bruce George Sharpe
2 Elfrelda St
Toongabbie, NSW AUSTRALIA 2146

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NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of : DECISION DISMISSING PETITION
Bruce George Sharpe :
Application No. 10/010,607 :
Filed: December 10, 2001 :
For: Sharp Safe Hydraulic Retractable Syringe :

This is a decision on the paper entitled "Petition for Review under 1.183" filed January 23, 2002, requesting that the above-identified application be accorded a filing date of November 6, 2001, the date the International express post article containing the application was forwarded from Australia to the United States, or November 21, 2001, the date the application allegedly reached the Baltimore security mail station instead of its specifically designated address, the United States Patent and Trademark Office (USPTO).

A review of this application reveals that applicant has attempted to appoint an agent (Ian Gorman) who is not registered to practice before the U.S. Patent and Trademark Office, contrary to the Code of Federal Regulations, 37 CFR 1.31. For a power of attorney or authorization of agent to be valid, the agent appointed must be registered to practice before the U.S. Patent and Trademark Office in accordance with 37 CFR 10.6. Therefore, the appointment is void, *ab initio*. The Office will not recognize the appointment and all correspondence concerning this application must be signed by: 1) all named applicants (inventors), 2) all the owners of the rights to the invention, or 3) a registered attorney or agent duly appointed by the inventor(s) or the owner(s). Furthermore, all communications from the Office will be addressed to the named inventor, unless specific instructions to the contrary are supplied by the named inventor(s) or owner(s). See MPEP 402. Applicant's signature on the power of attorney submitted simultaneously with the petition is being construed as a ratification of the petition by the applicant.

It is noted that the original application papers were received at the USPTO on December 10, 2001 and have been assigned application No. 10/010,607.

The Office also acknowledges receipt of applicant's statement by facsimile on May 17, 2002. The original of this statement was also received in the mail on June 3, 2002 and both papers have been placed in the application file.

Petitioner indicates that this application was mailed to the USPTO via International Express Post Australia (International Express Post Article No. LX515449390AU) to the USPTO on November 5, 2001. Because the applicant is an Australian citizen, residing in Australia, the application was not filed with the United States Postal Service (USPS). Petitioners argue that granting a filing date in a reasonable time after the November 5, 2001 date, for example, November 6, 2001 the date the International express post article containing the application was forwarded from Australia to the United States, or November 21, 2001, the date the application allegedly reached the Baltimore mail station instead of its specifically designated address, the United States Patent and Trademark Office (USPTO), is appropriate. Petitioner maintains that any delay in the arrival of the package in the USPTO was completely unavoidable and that the application was diverted in transit without warning nor prior knowledge to the applicant. Petitioner further maintains that the provisions of the Berne Convention mitigate in favor of the positive consideration of this petition for a filing date in the United States as either November 6, 2001 or November 21, 2001, as set forth above.

The evidence and arguments submitted by petitioner have been considered; however, they are not convincing that this application was, in fact, received in the Office on November 6, 2001, November 21, 2001, or anytime prior to December 10, 2001.

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 has determined that only the USPS "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.

Although it is appreciated that petitioner is not a resident of the United States, the Office is bound by statute (35 U.S.C. 21) and by rules (37 CFR 1.6 and 1.10) in determining the date of receipt of correspondence with the Office. In the instant petition, there is no allegation that the application papers deposited on November 5, 2001, were deposited with the USPS in compliance with the "Express Mail" procedures set forth in 37 CFR 1.10. Petitioner had the option of depositing the application papers in USPS "Express Mail" service on November 5, 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" regardless of when the papers actually arrived in the Office. Thus, petitioner could have avoided the instant predicament by following the procedures established by the Director. Instead, petitioner chose to deposit the application papers in International Express Post 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 5, 2001 mailing of the instant application papers by Australia International Express Post as the filing date of the above-identified application. Therefore, the application is only entitled to the December 10, 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. The copy of applicant's postcard receipt submitted indicates receipt in the USPTO of the application papers on December 10, 2001 as evidenced by the bar code and date stamp on the front of the post card. Applicant's contention that the "21" in the partially obscured USPS postal mark "88 BALTIMORE MD 212 2001" is evidence that the application was received in the United States on November 21, 2001 and subsequently diverted prior to reaching the USPTO is unconvincing. The post card necessarily reached the USPTO as evidenced by the bar code label showing the application number and filing date. It is likely that the "21" is part of the ZIP code designation for Baltimore, MD because 21288 is a ZIP code association with Baltimore, MD.

In view of the above, the petition is dismissed.

On February 5, 2002, the $130.00 petition fee was charged to applicant's credit card as authorized in the petition. The petition fee was necessary for consideration of the petition and will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of December 10, 2001 including processing of the reply to the Notice to File Corrected Application Papers filed by facsimile on February 21, 2002. After processing in Initial Patent Examination Division, the application will be forwarded to the Technology Center for a decision on the Petition to Make Special.

Telephone inquiries specific to this matter should be directed to Darnell M. Jayne at (703) 305-3310.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Kaye et al.	:	DECISION GRANTING PETITION
Application No. 10/010,613	:	UNDER 37 CFR 1.55(c)
Filed: 5 December, 2001	:	
Atty Docket No. 17893.006	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on 16 December, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign British Applications Nos. GB9408169.2, filed 25 April, 1994, and GB9521943.2, filed on 26 October, 1995.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the

claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign applications, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign applications. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on 5 December, 2001, which is after 29 November, 2000. Additionally, the above-noted foreign applications were filed within 12 months of the prior-filed applications noted in the amendment filed on 16 December, 2004, and in the Application Data Sheet received on 26 January, 2005, which identifies the foreign applications for which priority is claimed by application number, country, and filing date. The required petition fee of $1,370 has been received. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted.**

37 CFR § 1.55(c)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.55(c)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.55(c)(3).

A Corrected Filing Receipt which reflects the above-noted foreign applications accompanies this decision on petition.

This application is being forwarded to Technology Center AU 2876 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances M. Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Encl: Corrected Filing Receipt

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ALEXANDRIA, VA 22314

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APR 19 2004

OFFICE OF PETITIONS

In re Application of :
Somnath Mukherjee, et al. :
Application No. 10/010,615 :
Filed: November 8, 2001 :
Attorney Docket No. 249240US28 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed January 9, 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 11, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), it will be interpreted as the required statement. Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The Revocation of Power of Attorney and Change of Correspondence Address has been previously accepted and recorded.

Receipt is acknowledged of the Terminal Disclaimer filed March 17, 2004, with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAR 0 5 2007

OFFICE OF PETITIONS

In Application of :
Mukherjee, et al. :
Application No.: 10/010,615 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No.: 249240US28 :
For: LOSSY LINEARIZERS FOR ANALOG OPTICAL TRANSMITTERS

This is a decision on the petition under 37 CFR 1.181, filed December 28, 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 submit a reply to the Notice of Drawing Inconsistency with Specification, mailed May 31, 2005, which set a non-extendable one month period for reply. No reply being received, the Office contended that this application became abandoned on July 1, 2005. A Notice of Abandonment was mailed on August 22, 2006.

Petitioners allege that the May 31, 2005 Notice was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven nonreceipt. A practitioner working at the correspondence address of record has attested to a fruitless search of the file jacket and docket records. Practitioner has referenced a docket record and a mail log where the non-received Office communication would have been entered had it been received.

The petition is **granted**, the holding of abandonment is withdrawn, and the August 22, 2006 Notice of Abandonment is **vacated**.

A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence will be mailed to the address of record, unless a proper change of address is filed.

Since petitioner has submitted a reply to the May 31, 2005 Notice, it is unnecessary to re-mail it and set a new period for response.

After the mailing of this decision, the application will be returned to Publications Division for consideration of the amendment filed on December 28, 2006.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: FSP LLC
ATTN: CHARLES A. MIRHO
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Paper No. 9

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JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of
Gary Jack Reed
Application No. 10/010,629
Filed: November 7, 2001
Attorney Docket No. 31115-pa

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed December 23, 2002 and supplemented on January 2, 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 15, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 8, 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 3732 to await a reply to the nonfinal Office action mailed December 16, 2002.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6800078	2004-10-05	10010629	2001-11-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◯	3 ½ year	(1551)	◉	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◯ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

◯ A joint patentee; all of whom are signing this e-petition

◯ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/ Gary J. Reed/	Date (YYYY-MM-DD)	2010-02-12
Name	Gary J. Reed		

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. 6800078
Issue Date: October 5,2004
Application No. 10010629
Filed: November 7,2001
Attorney Docket No. 31115-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

COPY MAILED

DEC 03 2002

OFFICE OF PETITIONS

In re Application of :
Yifan Dai :
Application No. 10/010,644 : ON PETITION
Filed: November 8, 2001 :
Attorney Docket No. 96-2088-B :

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 10, 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 11, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The Notice to File Missing Parts of Nonprovisional Application mailed January 10, 2002, additionally required the submission of substitute drawings in compliance with 37 CFR 1.84 because the "more than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic number (1,2, etc.) Or an Arabic numeral and capital letter in the English alphabet (A,B, etc.)(see 37 CFR 1.84(u)(1))." Since petitioner has filed to submit the reply required by 37 CFR 1.137(b)(1), the petition must be dismissed.

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 $720.00 extension of time submitted with the petition on November 15, 2002 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Associate Power of Attorney filed November 15, 2002 is noted and made of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
U.S. Patent and Trademark Office
Box DAC, P.O. Box 2327
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, DC 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 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

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE, 32ND FLOOR
CHICAGO, IL 60606

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DEC 17 2002

OFFICE OF PETITIONS

In re Application of	:	
Yifan Dai	:	
Application No. 10/010,644	:	ON PETITION
Filed: November 8, 2001	:	
Attorney Docket No. 96-2088-B	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 11, 2002, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to the Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#5
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

OCT 11 2002

MAILED

OCT 11 2002

Office of the Director
Group 3600

Lester H. Birnbaum
6308 Sauterne Drive
Macungie, PA 18062

In re application of :
Cynthia Florence Dmochowski, et al. :
Application No. 10/010,656 : DECISION ON REQUEST
Filed: December 06, 2001 : FOR WITHDRAWAL OF
For: ONLINE CAPITAL APPROVAL : ATTORNEY
PROCESS :

This is a decision on the request filed on July 22, 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. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney is not accepted in the above identified application because it lacks conditions A), and D) above. The request is made on behalf of all the attorneys associated with Customer Number 22469. However, this customer number does not include attorneys Sharon Fenwick and Felicity Groth. Also there is no indication that the applicant was notified of the withdrawal request.

In summary, the request is **NOT APPROVED.**

Randolph Reese, Special Programs Examiner
Technology Center 3600
Telephone Number (703) 308-2121
Facsimile No.: (703) 605-0586

AM/RR: 10-02-02

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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HITT GAINES P.C.
P.O. BOX 832570
RICHARDSON, TX 75083

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OFFICE OF PETITIONS

In re Application of :
Cynthia Florence Dmochowski et al :
Application No. 10/010,656 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. DMOCHOWSKI-1-1-1-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 6, 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) were obtained. Accordingly, the above-identified application became abandoned on February 7, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3694 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 07-06

Paper No: __

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Chatterjee	:	
Application No. 10/010,674	:	DECISION
Filing Date: 11 November, 2001	:	
Attorney Docket No.: 018926-008900US	:	

This is a decision on the petition filed on 19 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

NOTE:

Although identified as Counsel for assignee, there is no indication that Petitioner herein was empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A 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.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

Fees Due and Notice of Allowability mailed on 15 March, 2006, with reply due absent extension of time on or before 15 June, 2006;

- the instant application went abandoned after midnight 15 June, 2006;
- the Office mailed a Notice of Abandonment on 28 June, 2006;
- previously, on 19 June, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
THOMAS BETHEA
MOTOROLA, INC.
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

[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.

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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AUG 18 2005

OFFICE OF PETITIONS

HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

In re Application of :
Emo : DECISION ON PETITION
Application No. 10/010,703 :
Filed: November 7, 2001 :
Docket No.: 3123-390 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 18, 2005 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned June 19, 2004 for failure to timely reply to the non-final Office action mailed March 18, 2004. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. 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 will be forwarded to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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 N. Nigon
RATNERPRESTIA
P.O. Box 980
Valley Forge, PA 19482-0980

MAILED

DEC 0 2 2005

TECHNOLOGY CENTER 2100

In re Application of:
Kanwaljit Singh Girn et al.
Application No. 10/010,706
Filed: December 4, 2001
For: FAMILY HISTORY BASED GENETIC SCREENING METHOD

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed September 30, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (Office) will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Eason /pp

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

cc: Dr. Craig Livingstone – AP Benson Limited
The Gabnold Wing
The Innovation Center
Howberry Park, Wallingford OX10 8BA
United Kingdom

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

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JUL 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Novak, Okamoto, and Christensen	:	
Application No. 10/010,736	:	DECISION ACCORDING STATUS
Filed: 6 December, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 4000.2.96	:	

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 4 April, 2002.

The petition is **GRANTED**.

Petitioners have shown that non-signing joint inventor Robert E. Novak has refused to join in the filing of this application. Specifically, petitioners have shown, via the statement by petitioners' counsel, Kory D. Christensen, that a copy of the application papers was sent by Federal Express on two (2) occasions to the last known address of joint inventor Novak, but Novak has failed to sign and return the declaration naming his as a joint inventor along with James K. Okamoto and Kory D. Christensen.

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.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

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, not the Declaration. 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 2600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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DIW 07-02

Robert E. Novak
602 Valeri Ruth Court
Santa Clara, CA 95080

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JUL 2 6 2002

OFFICE OF PETITIONS

In re Application of
Novak et al.
Application No. 10/010,736
Filed: 6 December, 2001
For: Method and System for Distributing Personalized Editions of Media Programs Using Bookmarks

Dear Mr. Novak:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

per D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 13 2007

Commissioner for Patents
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In re Application of	:
Isaiah J. Fuller et al	:
Serial No.: 10/010,763	: PETITION DECISION
Filed: November 2, 2001	:
Attorney Docket No.: UTSC:684US	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 18, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Wang, Wang, McConnell & Reznek
Application No. 10/010,764
Filed: December 7, 2001
Attorney Docket No. 01057
For: ELASTOMER COMPOSITES, ELASTOMER BLENDS AND METHODS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 12, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventor, Glendon A. McConnell, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the exhibits to the petition establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy