UNITED STATES 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

Ira V. Haffan
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:
Brainard et al.
Application No. 10/010,769
Filed: December 4, 2001
For: METHOD AND APPARATUS FOR PERFORMING TIME-BASED AUTHENTICATION

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed March 08, 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 March 08, 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 This correspondence address is provided by the withdrawn attorney(s).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

JM

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

cc: Eric L. Prahl, Esq.
HALE AND DORR LLP
60 State Street
Boston, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BHARAT SASTRI
ACTIVE OPTICAL NETWORKS, INC.
4215 TECHNOLOGY DRIVE
FREMONT CA 94538

COPY MAILED

APR 17 2009

OFFICE OF PETITIONS

In re Patent No. 6,751,395	:	
Issue Date: June 15, 2004	:	
Application No. 10/010,786	:	DECISION ON PETITION
Filed: November 9, 2001	:	
Attorney Docket No. 13441-002001 /AO-777	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 2, 2009 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 16, 2008 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 a timely response 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 in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. Additionally, the address given on the petition differs from the address of record. 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 Joan Olszewski at (571) 272-7751.

The patent file is being forwarded to Files Repository.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Susan Yee
2200 Geng Road
Palo Alto, CA 94303

UNITED STATES 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. 16

SEP 17 2003

ALTERA LAW GROUP L.L.C.
10749 Bren Road East, Opus 2
MINNEAPOLIS, MN 55343

In re Application of	:	
Nieminen et al.	:	DECISION ON PETITION
Application No. 10/010,808	:	
Filed: November 13, 2001	:	
Attorney Docket No. 602.356USW1	:	

This is a decision on the petition filed April 9, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A final rejection was mailed on September 16, 2002, setting forth a three-month period of response.

Petitioner asserts that the responses were timely filed as evidenced by copies of the papers filed and copies of the postcard receipts indicating receipt in the Patent and Trademark Office.

The review of the application file reveals that the Amendment filed March 17, 2003, along with payment of a three-month extension of time fee, an Information Disclosure Statement and a letter to the Official Draftsman were timely filed but not matched with the file. The papers have since been matched with the file and the application is not abandoned in fact. Further, the copy of the Revocation and New Power of Attorney indicated as an attachment was not enclosed.

The copy of the Revocation and New Power of Attorney submitted with the petition does not identify this application serial number as an application for which the paper should be entered.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

Questions regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS MN 55402

COPY MAILED

FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Allan T. Koshiol et al :
Application No. 10/010,845 :
Filed: November 13, 2001 :
Attorney Docket No. 279.196US2 :

ON PETITION

This is a decision on the petition, filed February 27, 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 December 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 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
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : February 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Allan T. Koshiol et al
Application No. :10/010,845
Filed :November 13, 2001

The above-identified application has been assigned Patent No. 7,010,348 and an issue date of March 7, 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 March 7, 2006:

"All reference to Patent No. 7,010,348 to Allan T. Koshiol et al of Minnesota for CHANGE LOG FOR IMPLANT MEDICAL DEVICE appearing in the Official Gazette of March 7, 2006 should be deleted since no patent was granted."

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9
COPY MAILED

JUL 1 6 2003

OFFICE OF PETITIONS

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD.
ANN ARBOR, MI 48105

In re Application of
Katsu, et al.
Application No. 10/010,863
Filed: December 5, 2001
Attorney Docket No.: PC9983A

: DECISION DISMISSING
: PETITION UNDER 37 CFR
: 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 2003, for revival of the above-identified application for patent.

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

Payment of the petition fee for consideration under 37 CFR 1.137(b) is a prerequisite for treat on the merits of the instant petition. The Office will not reach the merits of any petition under 37 CFR 1.137(b) lacking the requisite fee. Any renewed petition must be accompanied by the required petition fee.

Accordingly, the instant petition 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 1.137(b)." This is not a final agency 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 facsimile: (703) 308-6916

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

By delivery service: U.S. Patent and Trademark Office
(FedEx, UPS, DHL, etc.) 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 the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

COPY MAILED

JUL 24 2003

OFFICE OF PETITIONS

WARNER-LAMBERT COMPANY
2800 PLYMOUTH RD.
ANN ARBOR, MI 48105

In re Application of Katsu, et al. Application No. 10/010,863 Filed: December 5, 2001 Attorney Docket No.: PC9983A	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 21, 2003, for revival of the above-identified application for patent.

The above-identified application became abandoned October 7, 2002 for failure to timely respond to the Office communication mailed September 6, 2002. The Office communication set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed April 4, 2003. A petition under 37 CFR 1.137(b) was filed June 25, 2003 and dismissed July 16, 2003.

The required petition fee has been charged to Deposit Account No. 23-0455 as authorized in the instant petition.

This application is being forwarded to Technology Center 1600 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

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

DOUGLAS G GLANTZ
ATTORNEY AT LAW
5260 DEBORAH COURT
DOYLESTOWN PA 18901

COPY MAILED

JUL 0 5 2002

OFFICE OF PETITIONS

In re Application of
Tanzer, et al.
Application No. 10/010,869
Filed: December 7, 2001
Attorney Docket No. 12870.1
For: ABSORBENT STRUCTURE AND METHOD

DECISION GRANTING PETITION

This is a decision on the petition, filed May 17, 2002 (certificate of mailing date May 7, 2002), requesting, in effect, partial withdrawal of the Notices to File Missing Parts of Nonprovisional Application (Notice), mailed January 22, 2002 and May 1, 2002. The petition will be treated under 37 CFR 1.53(e).

The application was filed on December 7, 2001. On January 22, 2002 and on May 1, 2002, the Office of Initial Patent Examination mailed Notices informing petitioners that page 2 of the specification appeared to have been omitted.

In response to the Notice, petitioners filed the present petition on May 17, 2002 (certificate of mailing date May 7, 2002). Petitioners request that page 2 be accorded a filing date of December 7, 2001 on the basis that the entire specification, including allegedly missing page 2, was received in the Patent and Trademark Office (PTO) on December 7, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing December 7, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 71 pages of specification, claims and abstract. A review of the application file reveals that there are 70 pages present. Page 2 is missing.

The return postcard constitutes *prima facie* evidence that the entire specification, including missing page 2, was filed on December 7, 2001. MPEP 503. Accordingly, the request is granted.

The $130.00 petition fee will be credited to petitioners' deposit account, no. 07-1380.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 7, 2001, using the copy of page 2 supplied with the instant petition.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washingt n, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/28/02

2 Serial/Patent # 10/010,869

	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	6	5/17/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 07--1380

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Page present upon intial filing. Office mistake

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Shirene Willis TITLE: Petitions Atty

SIGNATURE: E. Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 7/5/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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 31, 2004

Kathleen Williams
Palmer & Dodge
111 Huntington Ave.
Boston, MA 02199-763

In re application of:
Sattlle, et al DECISION ON PETITION
Serial No.: 10/010,873
Filed: December 7, 2001
For: RECOMBINANT NEMATODE NICOTINIC
RECEPTOR AND USERS

This is a decision on the petition received by fax on June 18, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 7, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 8, 2003.

On June 18, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed November 7, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed November 7, 2002.

The petition is hereby Granted

The application will be completed with the documents received on June 18, 2003 for release the Technology center.

The office regrets any inconvenience this may have caused the client.

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

In re application of:
Basil, et al.
Application No. 10/010,894
Filed: November 8, 2001
For: DATA SCRAMBLING SYSTEM FOR A SHARED TRANSMISSION MEDIA

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on May 2, 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 of the attorneys/agents associated with Customer Number 26108 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) 272-1986

cc: John L. Doughty
ARRIS International, INC.
3871 Lakefield Drive
Suwanee, Georgia 30024

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-02

Paper No. 2

MEDTRONIC AVE INC
IP LEGAL
3576 UNOCAL PLACE
SANTA ROSA CA 95403

COPY MAILED

MAY 01 2002

OFFICE OF PETITIONS

In re Application of	:	
CHORNENKY et al.	:	DECISION
Application No. 10/010,911	:	
Filed: November 20, 2001	:	
Attorney Docket No. P775 CON 3	:	

The above-identified application is before this office due to an accompanying statement which is being construed as a request due to a designated postal emergency within the meaning of 35 USC 21(a) and 37 CFR 1.6(e) to accord this application a filing date of November 20, 2001.

The request is granted.

The statement is made by Christine Aceves who asserts she originally deposited the instant application papers by the Express Mail to Addressee Service of the USPS under 37 CFR 1.10 on November 20, 2001. The correspondence was addressed to the USPTO at Washington D.C. 20231, but was returned to the sender on November 29, 2001, as the USPS was not accepting Express Mail for zip codes inclusive of the USPTO address. The showing includes a copy of the original Express Mail Label No. EJ74474317US showing a "date-in" of November 20, 2001, and a USPS cancellation stamp indicating the correspondence was returned to the sender on November 29, 2001. Inspection of the instant application papers reveals the papers were initially accompanied by a transmittal letter bearing Express Mail Label No. EJ74474317US, the same number as on the label in question.

On Friday, November 16, 2001, the Chief Operating Officer and Executive Vice President of the United States Postal Service (USPS) issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C., ZIP Codes 202xx through 205xx (e.g., 20231). The USPTO is 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). On Thursday, November 29, 2001, the USPS indicated that this suspension of Express Mail service has been terminated.

The USPTO published a notice in the Official Gazette on October 9, 2001, that provides guidance in the situation in which a post office refuses to accept the deposit of mail for delivery by Express Mail service. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001). This notice was also posted on the USPTO's Internet Web site (http://www.uspto.gov/september11/uspsnotice01.htm). The guidance set forth in that notice also applies if a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of the USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which correspondence is returned as undeliverable due to this suspension.

Since the circumstances of this application clearly fall within the designated postal interruption, and the USPTO guidelines for seeking relief from the postal interruption have been met, this application is being accorded a filing date of November 20, 2001, the date the correspondence was entrusted to the USPS as Express Mail.

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 20, 2001, instead of the currently accorded date of December 4, 2001.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-05

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

COPY MAILED

JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Victor I. Chomensky	:	
Application No. 10/010,911	:	DECISION ON PETITION
Filed: 20 November, 2001	:	
Atty Docket No. P775 CON 3	:	

This is a decision on the petition filed on 10 May, 2005 (certificate of mailing date 13 July, 2004), under 37 CFR 1.137(b)[1], 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

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on 5 December, 2003, for failure to timely file a response to the Notice of Non-Compliant Amendment mailed on 4 November, 2003, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 June, 2004.

A review of Office financial records reveals that the deposit account for which authorization is provided, No. 50-2090, contains a balance of $0.00. Therefore the Office cannot charge the required petition fee.

In the absence of the petition fee, which is required by law, the PTO can only treat the instant petition as a (feeless 1.181) petition to withdraw the holding of abandonment. As petitioner has not asserted any grounds for the withdraw of the holding of abandonment, the petition must be dismissed. The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2]

Any renewed petition should include payment of the petition fee.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

By FAX: (703)872-9306
Attn: Office of Petitions

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: VINCENT B. INGRASSIA
INGRASSIA, FISHER & LORENZ, P.C.
7150 CAMELBACK ROAD, SUITE 325
SCOTTSDALE, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-05

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

COPY MAILED

AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Victor I. Chomensky	:	
Application No. 10/010,911	:	DECISION ON PETITION
Filed: 20 November, 2001	:	
Atty Docket No. P775 CON 3	:	

This is a decision on the renewed petition filed on 13 June, 2005 (certificate of mailing date 13 July, 2004), under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

The application became abandoned on 5 December, 2003, for failure to timely file a response to the Notice of Non-Compliant Amendment mailed on 4 November, 2003, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 14 June, 2004. The petition filed on 10 May, 2005 (certificate of mailing date 13 July, 2004), was dismissed on 6 June, 2005.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center 3739 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

cc: VINCENT B. INGRASSIA
INGRASSIA, FISHER & LORENZ, P.C.
7150 CAMELBACK ROAD, SUITE 325
SCOTTSDALE, AZ 85251

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Samuel G. Campbell, III
Campbell, Stephenson Ascolese LLP
4807 Spicewood Springs Road
Building 4, Suite 201
Austin, TX 78759

COPY MAILED

JUL 22 2003

OFFICE OF PETITIONS

In re Application of
David R. Cheriton
Application No. 10/010,918
Filed: December 7, 2001
Attorney Docket No. CIS0119US

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed July 11, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (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 December 3, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2185 for examination in due course.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6705465	2004-03-16	10010927	2001-11-13	16001.1

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sue C. Watson/	Date (YYYY-MM-DD)	2008-08-08
Name	Sue C. Watson	Registration Number	38850

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. 6705465
Issue Date: March 16,2004
Application No. 10010927
Filed: November 13,2001
Attorney Docket No. KCC 4728 .1 (16, 001.1)

:
: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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/08/07

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/010939** Patent No.: **7297797**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The last 2 versions of claim 1 received from applicant, including the allowed version contained is. This is not a printing error and was presumed to be an amendment back to the original version of claim 1.

JHWarden — **SPE**

1797 — **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 : February 20, 2009

Patent No. : 7267797
Inventor :Craighead et al.
Patent Issued : September 11, 2007
Title :NANOFABRICATED PHOTON TUNNELING BASED SENSOR

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 claim 1; the Letters Patent with regard to applicants request is considered as being printed in accordance with the records within the Patent and Trademark Office since the last 2 versions of claim 1 received from applicant, including the allowed version contained "is". This is not a printing error and was presumed to be an amendment back to the original version of claim 1. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 5 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

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) 308-9390 ext. 123

Schwegman, Lundberg & Woessner, PA
P.O .Box 2938
Minneapolis, MN 55402

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

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

COPY MAILED

JUL 09 2002

OFFICE OF PETITIONS

In re Application of
Xu, et al.
Application No. 10/010,940
Filed: December 5, 2001
Attorney Docket No. 210121.427D3

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed March 11, 2002, requesting that the above-identified application be accorded a December 5, 2001 filing date.

The application was deposited on December 5, 2001. On January 11, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that the specification and drawings were omitted and as such, no filing date had been accorded to the application.

In response to the Notice, petitioners timely filed the present petition on March 11, 2002. Petitioners request a filing date of December 5, 2001 on the basis that the entire specification, was received in the Patent and Trademark Office (PTO) on March 11, 2002.[1] In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing December 5, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 128 pages of specification and 12 pages of drawings.

The return postcard constitutes *prima facie* evidence that 128 pages of specification and 12 pages of drawings were filed on December 5, 2001. Accordingly, the request is granted.

A review of the copy of the original specification submitted with the instant petition reveals that 128 pages are present, though not numbered. Because the whole specification was missing, the postcard receipt showing 128 pages were received by the Office on December 5, 2001 is sufficient evidence to justify the accordation of a December 5, 2001 filing date to the 128 pages submitted with the instant petition. Had only a few pages been missing from the original filing, this analysis would have been more complicated and the outcome possibly different. It would have been difficult to ascertain which pages were actually missing from the remaining non-numbered pages found in the application file.

Petitioners are reminded that 37 CFR 1.52(a)(5) requires that the pages of the specification be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below the text. Petitioners are required to submit a substitute specification with pages consecutively numbered within **2 months** of the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a).

---

[1] The petition does not specifically address the fact that drawings were missing. However, Petitions Attorney Willis has addressed the issue of omitted drawings in this decision.

Pursuant to petitioners' authorization, deposit account no. 19-1090 will be refunded the $130.00 petition fee.

Petitioners are reminded that the requirements that petitioners submit the basic filing fee, additional claim fees, an oath or declaration, and a surcharge for their late filing are still outstanding. Petitioners must buy an extension of time pursuant to 37 CFR 1.136(a) to file these items prior to the last possible date for reply, or August 11, 2002.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 5, 2001, using the 12 pages of drawings filed with the instant petition, and to await receipt of a substitute specification with numbered pages.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

DEC 26 2006

OFFICE OF PETITIONS

In re Application of	:	
Basi et al.	:	DECISION ON APPLICATION
Application No. 10/010,942	:	FOR
Filed: December 6, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. ELN-002	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b)," filed August 10, 2006. Applicants request that the determination of patent term adjustment be corrected from zero (0) days to at least five hundred eight (508) 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 ZERO (0) days, including an additional period of reduction of 12 days for applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 11, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The instant application for patent term adjustment was timely filed[1]. Applicants dispute the reduction of 107 days associated with their filing of a response on September 16, 2002 to the Notice to File Missing Parts of

[1] PALM records indicate that the Issue Fee was received on August 11, 2006.

Application mailed March 1, 2002. Applicants contend that their response was filed on July 9, 2002, and thus, the period of reduction pursuant to 1.704(b) is 38 days.

Applicants disclose that a period of reduction of 12 days should be entered for their filing of an Information Disclosure Statement on March 12, 2006. This period has been entered.

37 C.F.R. §1.704(c)(7) provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, a response was filed on July 9, 2002, three months and 38 days after the mailing of the Notice. Further, this response as indicated by the Notice to Comply mailed August 21, 2002, had an omission. On September 16, 2002, 69 days later, applicant filed the paper correcting the omission. Accordingly, pursuant to 37 CFR §§ 1.704(b) and 1.704(c)(7), a total period of 107 days was entered for applicant delay associated with these two failures to engage.

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.

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

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Thursday
Date: 12/21/2006

PALM INTRANET

Time: 07:33:59

PTA Calculations for Application: 10/010942			
Application Filing Date:	12/06/2001	PTO Delay (PTO):	244
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	392
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-12		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
110	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
109	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
108	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	73		
107	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	107		
106	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		73	
105	12/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		12	
85	05/11/2006	MAIL NOTICE OF ALLOWANCE			
84	05/11/2006	MAIL FORMAL DRAWINGS REQUIRED			
83	05/11/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
82	05/10/2006	ISSUE REVISION COMPLETED			
81	05/10/2006	FORMAL DRAWINGS REQUIRED			
80	05/10/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	05/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
78	05/10/2006	NOTICE OF ALLOWABILITY			
77	04/24/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	05/01/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
75	04/11/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
74	03/15/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	03/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
72	12/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

71	03/15/2006	REFERENCE CAPTURE ON IDS			
70	03/15/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
69	03/03/2006	NEW OR ADDITIONAL DRAWING FILED			
68	03/13/2006	DATE FORWARDED TO EXAMINER			
67	03/03/2006	RESPONSE AFTER NON-FINAL ACTION		59	59
66	03/03/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
65	03/03/2006	REFERENCE CAPTURE ON IDS			
64	03/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	02/22/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
62	02/16/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
61	12/22/2005	REFERENCE CAPTURE ON IDS			
60	12/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	10/03/2005	MAIL NON-FINAL REJECTION	14		47
58	09/29/2005	NON-FINAL REJECTION			
57	08/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
56	06/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
55	05/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		5	47
54	06/02/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
53	06/02/2005	CASE DOCKETED TO EXAMINER IN GAU			
52	11/29/2004	REFERENCE CAPTURE ON IDS			
51	11/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	05/24/2005	REFERENCE CAPTURE ON IDS			
48	06/01/2005	DATE FORWARDED TO EXAMINER			
47	05/19/2005	RESPONSE AFTER NON-FINAL ACTION		30	44
46	05/19/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	05/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
44	01/19/2005	MAIL NON-FINAL REJECTION			
43	01/19/2005	NON-FINAL REJECTION			
42	12/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		20	38

41	12/20/2004	DATE FORWARDED TO EXAMINER			
40	12/14/2004	SUPPLEMENTAL RESPONSE			
39	12/07/2004	DATE FORWARDED TO EXAMINER			
38	11/26/2004	RESPONSE AFTER NON-FINAL ACTION		92	35
37	11/26/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	11/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
35	05/26/2004	MAIL NON-FINAL REJECTION			
34	05/25/2004	NON-FINAL REJECTION			
33	03/18/2004	DATE FORWARDED TO EXAMINER			
32	03/12/2004	RESPONSE TO ELECTION / RESTRICTION FILED		79	26
29	03/12/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	12/19/2003	CORRESPONDENCE ADDRESS CHANGE			
27	09/20/2003	PRELIMINARY AMENDMENT			
26	09/24/2003	MAIL RESTRICTION REQUIREMENT	230		-1
25	09/24/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
24	09/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
23	10/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	07/09/2002	PRELIMINARY AMENDMENT			
21	05/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
20	04/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
19	10/11/2002	APPLICATION DISPATCHED FROM OIPE			
18	10/10/2002	APPLICATION IS NOW COMPLETE			
17	09/16/2002	ADDITIONAL APPLICATION FILING FEES		107	8
16	09/16/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
15	10/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
14	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
13	08/21/2002	SEQUENCE ERRORS			
12	07/01/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
11	07/01/2002	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	07/01/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

9	07/30/2002	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
8	03/01/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	01/15/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	01/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
4	01/04/2002	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
3	12/19/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/06/2001	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/06/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES 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.

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

Patent No. 7,189,819	:	
Basi et al.	:	DECISION ON REQUEST FOR
Application No. 10/010,942	:	RECONSIDERATION OF
Issue Date: March 13, 2007	:	DECISION ON APPLICATION
Filed: December 6, 2001	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket No. ELN-002	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF AN APPLICATION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. §1.705(b) AND/OR §1.705(c)," filed February 26, 2007.

The request for reconsideration of the decision of December 26, 2006 is granted to the extent that the decision of December 26, 2006 has been reconsidered and **GRANTED** on the merits.

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 four hundred ninety-two **(492)** days.

In pertinent part, by decision mailed December 26, 2006, the application for patent term adjustment filed October 26, 2006 was granted-in-part. However, a period of reduction of 69 days was entered pursuant to 37 C.F.R. §1.704(c)(7). The basis of this reduction was that applicant's response filed July 9, 2002 had an omission, which was corrected with the filing of another response, 69 days later, on September 16, 2002.

On instant request for reconsideration, patentees maintain that the response, contained on a computer readable disk, did not include an omission. Rather, the disk filed July 1, 2002 had to

be re-supplied September 16, 2002 because it was subsequently found to be damaged by the USPTO and the damage was not due to any lack of due care by Applicants, but instead due to the subsequent handling and treatment of the disk by others.

Patentees' arguments and evidence have been considered and found persuasive. The request for reconsideration included evidence that the disk filed July 1, 2002 was identical to the disk filed September 16, 2002, and that both disks as they were originally sent to the Office by patentees were not damaged. In view thereof, the reduction of 69 days entered pursuant to § 1.704(c)(7) is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of 492 days.

No fee is required on instant request for reconsideration of decision on application for patent term adjustment.

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 four hundred ninety-two **(492)** 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 : 7,189,819 B2

DATED : March 13, 2007

INVENTOR(S) : Basi 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 (423) days

Delete the phrase "by 423" and insert – by 492 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,189,819	:	
Basi et al.	:	DECISION DENYING
Application No. 10/010,942	:	REQUEST FOR
Issue Date: March 13, 2007	:	RECONSIDERATION OF
Filed: December 6, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. ELN-002	:	UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed May 14, 2007, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred ninety-two (492) days to at minimum seven hundred twenty-two (722) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 492 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C 704 and for purposes of seeking judicial review. See MPEP § 1002.02(b).

BACKGROUND

On May 11, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days.

On August 10, 2006[1], patentees timely filed a request for reconsideration of patent term adjustment pursuant to 37 CFR § 1.705(b), requesting that the initial determination of patent term adjustment be corrected from zero days to at least five hundred eight (508) days. By decision mailed December 26, 2006, the request was granted only to the extent that the patent term adjustment determination at the time of the mailing of the notice of allowance was changed to zero days, including an additional period of reduction of twelve (12) days for applicant delay[2] and an additional period of reduction of sixty-nine (69) days for applicant delay pursuant to 37 CFR 1.704(c)(7). It is noted that the issue of entry of a period of adjustment for the Office taking in excess of three years to issue the patent was not addressed[3].

On February 26, 2007, patentees filed a request for reconsideration of the decision mailed December 26, 2006.

Prior to a decision being rendered, on March 13, 2007, the application matured into U.S. patent No. 7,189,819, with a revised patent term adjustment of four hundred twenty-three (423) days. This revised determination included entry of an additional period of adjustment of four hundred ninety-one (491) days for the Office taking in excess of three years to issue the patent.

By decision mailed April 2, 2007, the request for reconsideration was granted only to the extent that the disputed period of reduction of 69 days previously entered pursuant to 37 C.F.R. §1.704(c)(7) was removed. The revised patent term adjustment was corrected to four hundred ninety-two (492) days (423 + 69) by way of issuance of a Certificate of Correction on May 1, 2007.

---

[1] A copy of this request was resubmitted on October 26, 2006.

[2] Patentees had disclosed that an additional period of reduction of 12 days should have been entered pursuant to 37 CFR 1.704(c)(8) and the Office agreed.

[3] It appears that this issue was overlooked on review of the application for patent term adjustment filed August 10, 2006. This was of no consequence to the decision rendered. As knowledge of the actual date of issuance of the patent is necessary to determine this period, it is Office practice to hold the decision on this issue in abeyance until after the actual patent date. Had this issue not been overlooked, the decision mailed December 26, 2006 would have additionally stated that as to this issue a "decision is being held in abeyance until after the actual patent date" and set a two-month period from the date of issuance of the patent for patentees to request that the Office address this issue.

As the patent had not issued when the request was filed, patentees' request for reconsideration filed February 26, 2007 only addressed the initial determination of patent term adjustment and not the additional period of adjustment of four hundred ninety-one (491) days. In turn, the decision did not directly address patentees' original contention with respect to the period of adjustment for the Office taking in excess of three years to issue the patent. Nonetheless, the revised patent term adjustment determination was reviewed in *toto* and the additional period of adjustment of four hundred ninety-one (491) days found to be correct.

On May 14, 2007, this request for reconsideration of the revised patent term adjustment indicated in the patent was timely filed.

Prior to this decision being rendered, a civil action was filed.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[4] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. —
>
> (1) PATENT TERM GUARANTEES. —
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to —
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

[4] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – 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);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to –

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the

term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. –

(A) IN GENERAL. – To the extent that 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.

The implementing regulation, **37 CFR § 1.702**, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of

the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[5]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(3) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply in compliance with § 1.113(c) was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(4) The number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

---

[5] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

(5) The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first; and

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[6]:

---

[6] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

OPINION

On March 13, 2007, this patent issued with a revised patent term adjustment of four hundred twenty-three (423) days. Pursuant to the decision mailed April 2, 2007, on May 1, 2007, the Office issued a Certificate of Correction correcting the patent term adjustment in this patent from 423 to 492 days. Patentees argue that the determination of 492 days remains in error in that pursuant to 35 U.S.C. § 154(b) the Office failed to issue a patent within three years of the actual filing date of the above-referenced application in accordance with 37 CFR § 1.702(b) **and** failed to take certain action within the time frames specified in 37 CFR § 1.702(a).

Specifically, patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 827 days. This 827 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 6, 2001, and the patent having not issued until March 13, 2007, three years and 827 days later. Patentees maintain that in addition to this 827 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 336 days. This 336 day period is the sum of:

- a period of delay of 230 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the

date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1);

- a period of delay of 14 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2);
- a period of delay of 92 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4).

Patentees further state, citing 37 CFR § 1.703(f), that they 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, the period of Office delay reduced by the period of applicant delay. The period of reduction of 335 days for applicant delay is not in dispute[7]. Patentees maintain that the total period of Office delay is the sum of the period of Three Years Delay (827 days) and the period of Examination Delay (336 days) **to the extent that these periods of delay are not overlapping.** Patentees contend that:

> As the period of 14 month delay ended on September 24, 2003, prior to the first day of the period of Three Years Delay, i.e., December 7, 2004, Patentees submit that these periods are not overlapping. Patentees note, however, that both the 14 day period of 4 month examination delay (September 20, 2005 to October 3, 2005) and the 92 day period of 4 month issue delay (December 12, 2006 to March 13, 2007) overlap with portions of the Three Year Delay period (December 7, 2004 to March 13, 2007). Accordingly, patentees submit that the total period of Office Delay is 1057 days, which is the sum of the period of Three Year Delay (827 days) and the period of Examination Delay (336 days), reduced by the period of overlap (14 days + 92 days = 106 days). See pp. 3-4 of petition filed May 14, 2007.

---

[7] The periods of reduction include pursuant to 37 CFR 1.704(b), 79 days for response filed March 12, 2004, 92 days for response filed November 26, 2004, 30 days for response filed May 19, 2005, 59 days for response filed March 3, 2006, and as corrected by decision of December 26, 2006, 38 days (not 107 days) for the response filed July 9, 2002; and pursuant to 37 CFR 1.704(c)(8), 20, 5, and 12 days for supplemental papers filed December 16, 2004, May 24, 2005, and March 12, 2006 (The 12 days was also corrected by decision of December 26, 2006).

As such, patentees assert entitlement to a patent term adjustment of 722 days (827 + 336 - 106 reduced by 335).

The Office agrees that the patent issued 3 years and 827 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 230, 14 and 92 days respectively are correct. At issue is whether patentees should accrue 827 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 336 days for Office failure to take certain actions within specified time frames (or examination delay) with only a period of 106 days considered to overlap.

The Office does not agree and contends that the entire period of 336 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[8]

As such, the period for over 3 year pendency does not as argued by patentees overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Patentees are incorrect in treating the relevant period as starting on December 7, 2004, the date that is 3 years after the actual filing date of the application.

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 entire period during which

---

[8] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the application was pending before the Office, December 6, 2001 to April 2, 2007. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 336 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. All of these 336 days overlap with the 827 days for Office delay in issuing the patent. Accordingly, at issuance, the Office properly entered 491 days (827 - 336 days) additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office maintains that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 492 days. The Certificate of Correction was properly issued and no further action is required.

CONCLUSION

The request for reconsideration of the revised patent term adjustment is denied. This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

The Office acknowledges that patentees previously submitted the $200 fee set forth in §1.18(e) on application for patent term adjustment filed August 10, 2006. As this request pertains only to the over 3-year delay issue raised in the application for patent term adjustment, no additional fees are required.

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

Robert W. Bahr
Senior Patent Counsel
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

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

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,189,819	:
Basi et al.	: DECISION UPON REMAND AND
Issue Date: February 13, 2007	: RECONSIDERATION OF
Application No. 10/010,942	: PATENT TERM ADJUSTMENT
Filed: Dec. 6, 2001	: AND NOTICE OF INTENT
Attorney Docket No. ELN-002	: TO ISSUE CERTIFICATE OF
Title: Human Antibodies that	: CORRECTION
Recognized Beta Amyloid	:
Peptides	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seven hundred and twenty-two (722) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and twenty-two (722) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,189,819 B2

DATED : **March 13, 2007** **DRAFT**

INVENTOR(S) : Basi 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 492 days

Delete the phrase "by 492 days" and insert – by 722 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,189,819 B2

DATED : **March 13, 2007** **DRAFT**

INVENTOR(S) : Basi 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 492 days

Delete the phrase "by 492 days" and insert – by 722 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

COPY MAILED

SEP 0 9 2003

OFFICE OF PETITIONS

In re Application of
Mutz, et al.
Application No. 10/010,972
Filed: December 4, 2001
Attorney Docket No. 7610-0047
For: ACOUSTIC ASSESSMENT OF FLUIDS IN A PLURALITY OF RESERVOIRS

: ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed February 12, 2003, requesting that the above-identified application be accorded a filing date of December 4, 2001. It is noted that a filing receipt, mailed January 23, 2002, listed December 7, 2001 as the filing date for the above-identified application. In addition, petitioner requests expedited review under 37 CFR 1.182.

The petition under 37 CFR 1.10(c) is **GRANTED**.

The petition under 37 CFR 1.182 is **DISMISSED AS MOOT** because over 6 months have passed since the instant petition was filed. It would not be equitable to charge a fee for expedited review.

Petitioner requests a filing date of December 4, 2001 on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on December 4, 2001, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EL910282067US showing a "date-in" of 12/4/01 **and** a USPS date stamp of DEC 4 2001. The same Express Mail label number is listed on the original Utility Patent Application Transmittal found in the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL910282067US was deposited with the USPS on December 4, 2001.

Accordingly, the petition is granted. No fee has been or will be charged in connection with the Rule 10 petition.

All Office records show the filing date of the above-identified application as December 4, 2001. It is unnecessary to return the application file to the Office of Initial Patent Examination for further processing. Please find enclosed a corrected filing receipt.

The application file will be returned to TC GAU 2861.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: corrected filing receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/12/08

TO SPE OF : ART UNIT 2436 Cervetti David

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/010974 Patent No.: 7305556

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: Col. 16 Line 41

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. _____

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: _____

Nasser Moazzami — **SPE**

2436 — **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

IPXLAW GROUP, LLP
95 SOUTH MARKET STREET
SUITE 570
SAN JOSE, CA 95113

COPY MAILED

MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Gerard Alan Lynch :
Application No. 10/010,993 : DECISION ON PETITION
Filed: November 12, 2001 :
Attorney Docket No. 499-0102 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 4, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 4, 2008. Accordingly, the date of abandonment of this application is February 5, 2009.

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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the status of this application should be directed to the Office of Data Management at 571-272-4000.

This application is being referred to the Office of Data Management for processing into a patent.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

Jay L. Chaskin
General Electric Company
3135 Easton Turnpike - W3C
Fairfield, CT 06431

COPY MAILED

JUN 20 2003

OFFICE OF PETITIONS

In re Application of Francisco Sureda, et. al. Application No. 10/011,011 Filed: November 9, 2001 Attorney Docket No.14XZ00088	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2003, 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 Missing Parts of Application 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 after midnight March 24, 2002.

In response, petitioner submitted with the instant petition the required Oath/Declaration and the $130 surcharge for late filing of the Oath/Declaration. Since petitioner has met all the requirements for a grantable petition, the petition is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination for further processing using the declaration filed on May 15, 2003.

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

OCT 2 0 2004

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

Paper No. 7

Steven M. Mitchell
Pacesetter, Inc.
701 East Evelyn Avenue
Sunnyvale, CA 94086

In re Application of Louis Wong Serial No. : 10/011,018 Filed : December 4, 2001 For : Methods and Devices for Reducing Integrated Circuit Power Consumption in Implantable Cardiac Stimulation Devices	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on a request filed August 19, 2004, to review the holding of abandonment mailed August 09, 2004, for failure to pay the issue fee as required in the Notice of Allowance and Fee(s) Due mailed March 1, 2004. The request is based on an allegation that applicant did not receive the Office action mailed March 1, 2004. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received, and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed August 19, 2004 includes items (1) but not (2) and (3). The request is therefore dismissed and the holding of abandonment stands. Any request for reconsideration of this decision should be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". Telephone inquiries regarding this decision should be directed to Special Program Examiner Andres Kashnikow at (703) 308-1137.

Summary: Petition to Withdraw Holding of Abandonment is Dismissed pending the submission of a renewed petition.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/9/29/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSENFELD LAW CORPORATION
2165 FILBERT STREET
SUITE 200
SAN FRANCISCO, CA 94123

COPY MAILED

AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Laurent Scallie, et al. :
Application No. 10/011,027 : ON PETITION
Filed: November 2, 2001 :
Attorney Docket No. AC-001-US :

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to a final Office action mailed April 7, 2004. A Notice of Abandonment was mailed November 1, 2004.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 3713 for further processing of the request for continued examination under 37 CFR 1.114 filed March 24, 2005.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

Mail Date: 05/03/2010

Applicant	: Georgia Lynn Zehner	: DECISION ON REQUEST FOR
Patent Number	: 7608069	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/011,088	: 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 **1043** 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

Christopher M. Goff (27839)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

Mail Date: 06/09/2010

Applicant	: Georgia Lynn Zehner	: DECISION ON REQUEST FOR
Patent Number	: 7628778	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/011,089	: 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 **1305** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ginger Dreger, esq.
Heller Ehrman White & McAuliffe, LLP
275 Middlefield Road
Menlo Park, CA 94025

In re Application of:
Afar et al.
Serial No.: 10/011,095
Filed: December 6, 2001
Attorney Docket No.: 511582001610

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on December 20, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed February 5, 2004.

A review of the file history shows that the examiner mailed an Office action to applicants on February 5, 2004, setting a three-month statutory time period for reply. On December 3, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on May 3, 2004, as shown by the Certificate of Mailing executed under 37 CFR §1.8 on May 3, 2004. However, it is pointed out that the Transmittal Form is dated May 3, 2004 but the Amendment is dated May 5, 2004. In any event, both are considered timely as the due date for the response was May 5, 2004. Applicants also submit a copy of the post card identifying the papers filed and showing a USPTO date-stamped receipt of May 6, 2004. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

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 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

COPY MAILED

SEP 22 2005

OFFICE OF PETITIONS

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

In re Application of	:
Afar, et al.	: DECISION ON APPLICATION FOR
Application No. 10/011,095	: PATENT TERM ADJUSTMENT
Filed: December 6, 2001	:
Atty. Dkt. No.: 511582001610	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed July 13, 2005.

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

Applicant requests that the Determination of Patent Term Adjustment be corrected from zero days as indicated on the Determination of Patent Term Adjustment mailed June 15, 2005 to an adjustment of 253 days.

A review of the application history reveals that at the time of allowance, an adjustment of 350 days could be attributed to the Office[1].

The adjustment of 350 days is reduced 97 days under 37 CFR 1.704(b) for applicant's failure to engage in reasonable efforts to conclude prosecution[2].

The Office errantly entered December 20, 2004 as the date a response to the non-final Office action was filed, rather than

---

[1] In accordance with 37 CFR 1.702(a)(1) an adjustment 68 days could be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed. The adjustment began February 7, 2003 and ended April 15, 2003. *See*, 37 CFR 1.703(a)(1). In accordance with 37 CFR 1.702(a)(2), an adjustment of 282 days can be attributed to the Office for failure to respond to a reply under 35 U.S.C. 132 U.S.C. 134 not later than four months after the date on which the reply was filed. The adjustment began September 7, 2004 and ended June 15, 2005. *See*, 37 CFR 1.703(a)(2).

[2] The adjustment of 350 days is reduced 97 days, the period of time in excess of three months taken to reply to any notice or action by the Office under 37 CFR 1.704(b). The reduction began July 16, 2003 and ended October 20, 2003.

May 6, 2004, the date a response was actually filed as set forth in the decision withdrawing the holding of abandonment mailed April 11, 2005.

Thus, at the time of Allowance, the application was entitled to an adjustment of 253 days as argued by applicant.

The required application fee of $200.00 has been charged to applicants' deposit account as authorized.

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

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
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED

JUN 1 5 2007

OFFICE OF PETITIONS

In re Application of Ogawa :
Application No. 10/011,101 :
Filing Date: December 7, 2001 :
Attorney Docket No. 09792909-5317 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed February 6, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed July 27, 2006, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on December 28, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee. Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination. 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.

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

Technology Center Art Unit 2145 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

cc: A. Wesley Ferrebee
East Tower, 6th Floor
1301 K St. NW
Washington, DC 20005

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

CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 04/21/2010

Applicant	: Nicholas Bambos	: DECISION ON REQUEST FOR
Patent Number	: 7634287	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/011,116	: 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 **1271** 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

CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 05/18/2010

Applicant : Nicholas Bambos
Patent Number : 7634287
Issue Date : 12/15/2009
Application No : 10/011,116
Filed : 11/13/2001

: 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 **1317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEVEN W. STEWART
DIGIMARC CORPORATION
19801 SW 72ND AVENUE
SUITE 100
TUALATIN, OR 97062

COPY MAILED

OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Scott Carr, et al.	:	
Application No. 10/011,129	:	DECISION ON PETITION
Filed: November 9, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. EWG-080-C01		

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 27, 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 November 9, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571-272-3204.

This application is being referred to Technology Center Art Unit 2621 for appropriate action on the amendment filed July 27, 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.

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

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

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
DEC 20 2006
OFFICE OF PETITIONS

MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET, NY 11791

In re Application of
William H. Lynch
Application No. 10/011,149
Filed: December 7, 2001
Attorney Docket No. **WHL-1-JS**

ON PETITION

This is a decision on the petition filed August 31, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned December 8, 2005 for failure to timely pay the issue fee on or before December 7, 2005. Accordingly, a Notice of Abandonment was mailed April 25, 2006.

The issue fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILLIAMS MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

COPY MAILED

AUG 13 2008

OFFICE OF PETITIONS

In re Application of :
Geoffrey S. Strongin et al :
Application No. 10/011,151 :
Filed: December 5, 2001 :
Attorney Docket No. 2000.055400 :

ON PETITION

This is a decision on the petition filed May 1, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed January 2, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 3, 2008.

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

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

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

COPY MAILED

AUG 23 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Eduard Zwack	:	
Application No. 10/011,156	:	
Filed: December 5, 2001	:	
Attorney Docket No. 112740-361	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 9, 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 September 22, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 23, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 2182 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

SAWYER LAW GROUP
P O BOX 51418
PALO ALTO CA 94303

COPY MAILED

JUL 1 6 2002

OFFICE OF PETITIONS

In re Application of :
Gerald Edward Kozina :
Application No. 10/011,181 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 0112US1/1973P :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed July 1, 2002, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/265,187, filed January 30, 2001.

The petition is **DISMISSED**.

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) 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) 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.

---

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

The instant pending nonprovisional application was filed on November 9, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/265,187, which was filed on January 30, 2001, and for which priority is now being claimed.

A reference to add the above-noted, prior-filed provisional application on page one following the first sentence of the specification has been included in an amendment filed on July 1, 2002. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment deleting the incorporation by reference statement is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment by facsimile transmission to the number indicated below and to the attention of the undersigned .

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

By mail:

U.S. Patent and Trademark Office
P.O. Box 2327
Mailstop DAC
Arlington, VA 22202

OR

Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

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

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

Frances Hicks

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

United States Patent and Trademark Office

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

Paper No. 11

SAWYER LAW GROUP
P O BOX 51418
PALO ALTO CA 94303

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:
Gerald Edward Kozina	:
Application No. 10/011,181	: DECISION ON PETITION
Filed: November 9, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 0113US1/1973P	:

This is in response to the communication received by facsimile transmission on July 30, 2002, which is being treated as a renewed petition under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5) 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) 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

[1] Any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference (i.e., in an amendment to the first line of the specification following the title or in an application data sheet (ADS)) to each such prior-filed provisional application, identifying it as a provisional application, and including the application number (consisting of the series code and serial number).

unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 9, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/265,187, which was filed on January 30, 2001, and for which priority is claimed. A reference to the prior provisional application has been included in an amendment (filed August 1, 2002) to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/265,187 is granted as of the date of filing the petition.

A corrected filing receipt which includes the priority claim to provisional Application No. 60/265,187, filed January 30, 2001, and the projected publication date of November 7, 2002 for the instant application accompanies this decision on petition.

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

This application is being forwarded to Technology Center AU 2177 for processing the amendment filed August 1, 2002 and for consideration by the examiner of the claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional application, Application No. 60/265,187, filed on January 30, 2001.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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

N/6

PATENT & TRADEMARK OFFICE
MAILED

MAY 20 2003

LICENSING & REVIEW

Aclara Biosciences Inc.
1288 Pear Avenue
Mountain View, CA 9404

In re Application of: Chenna et al

For Serial No. 10/011,201
Filed: November 09,2001

DECISION ON
REQUEST FOR
RECONSIDERATION

For :**METHODS AND COMPOSITIONS FOR ENHANCING DETECTION IN DETERMINING EMPLOYING CLEAVABLE ELECTROPHORETIC TAG REAGENTS**

This is a decision on the REQUEST FOR RECONSIDERATION filed May 6, 2003, responding to the THIRTY-DAY LETTER mailed April 25, 2003.

The request is **Granted.**

No further action is required regarding this issue.

Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
Patent Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CERUS CORPORATION
C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

COPY MAILED

JUN 14 2004

OFFICE OF PETITIONS

In re Application of	:
Derek J. Hei	:
Application No. 10/011,202	: DECISION ON PETITION
Filed: December 7, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 282172000403	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment embodied in the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 7, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed

nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment filed April 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications set forth in the amendment embodied in the instant petition.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/011,204	11/08/2001	Roger Philip Ekins	0380-P01180US1

OIPE JC100
APR 1 1 2002
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 2867

FORMALITIES LETTER

OC000000007400360

000110
DANN DORFMAN HERRELL & SKILLMAN
SUITE 720
1601 MARKET STREET
PHILADELPHIA, PA 19103-2307

Date Mailed: 01/31/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

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

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

MAILED

MAY 12 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
BLAKE, ANDREW, et. al.
Serial No.: 10/011,207
Filed: December 5, 2001
For: **METHODS AND SYSTEM FOR PROVIDING IMAGE OBJECT BOUNDARY DEFINITION BY PARTICLE FILTERING**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, December 5, 2001, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1, 3 through 7C be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted to accept color drawings, filed 11/30/01.

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

Bruce Campell

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

www.uspto.gov

APR 26 2007

Jeffrey W. Guise
WILSON, SONSINI GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304

In re Application of	:
Watkins	:
Serial No.: 10/011.250	: PETITION DECISION
Filed: 6 December 2001	:
Attorney Docket No.:P-IX 5082	:

This is in response to the petition under 37 CFR 1.181, filed 9 March 2007, requesting supervisory review and reconsideration of an Examiner's decision to withdraw claims 168-221 and 223-249 from consideration as being drawn to a non-elected invention and to reconsider the Quayle action, which closed prosecution on the merits.

BACKGROUND

A review of the file history shows that this application was filed on 6 December 2001, under 35 U.S.C. 111(a). The examiner mailed to applicants on 23 June 2003, a restriction requirement, requiring restriction to a single sequence.

On 23 December 2003, Applicants elected an antibody having SEQ ID No 38, 40, 103, 32, 34 and 36, which encompassed claims 84-86, 103-124, with traverse.

On 5 April 2004, the examiner mailed an Office action which contained a second restriction requirement and described an election made by applicants with traverse over the telephone of an antibody having SEQ ID No 38, 40, 103, 32, 34 and 36, which encompassed claims 84-86, 103-124.

In the same action, mailed on 5 April 2004, the examiner prepared a first action on the merits in which claim 84, filed 23 December 2003, was examined and rejected. Claim 84, as it was examined, is presented below. Claim 84 is drawn to an antibody that requires at least one substitution to one of the CDRs.

84. (New) A grafted antibody, or functional fragment thereof, comprising one or more complementarity determining regions (CDRs) having at least one amino acid substitution in one or more CDRs of a heavy chain CDR selected from the group consisting of SEQ ID NOS:38, 40 and 42 or a light chain CDR selected from the group consisting of SEQ ID NOS:32, 34 and 36, said grafted antibody or functional fragment thereof having specific binding activity for a cryptic collagen epitope.

In the same action, mailed 5 April 2004, the examiner examined claim 104 on the merits. Claim 104 is directed to a nucleic acid molecule which encodes the elected antibody.

104. (Previously presented) A nucleic acid encoding the antibody of any of claims 84-102.

The file record then shows that on applicants' part, various claim amendments were made and a request for reconsideration was filed, while on the Office's part, a final action, a non-final rejection and then a Quayle action were prepared and mailed. A review of the outgoing correspondence fails to identify any restriction requirement set forth subsequent to the one mailed April 5, 2004.

On 16 November 2006, applicants filed a response which included an amendment to enter new claims 168-249. A representative portion of Claim 168 as filed on 16 November 2006 is reproduced below. Claim 168 then goes on to recite specific substitutions for the other five CDRs in claim 168, part (ii)-(vi).

168. (New) An antibody, or antigen-binding fragment thereof, which has higher binding affinity for denatured collagen over native collagen comprising a heavy chain variable region and a light chain variable region, wherein at least one of the CDRs in the heavy chain variable region or the light chain variable region comprises one or more substitutions selected from:

(i) a heavy chain CDR1 having the amino acid sequence of SEQ ID NO: 38 having one or more substitutions selected from:

(a) substitution of serine at position 7 therein by proline or tryptophan; and

(b) substitution of glycine at position 12 therein by tryptophan, leucine or alanine; and

Applicants filed this petition on 12 January 2007, requesting review and reconsideration of withdrawn claims 168-221 and 223-249 and the closure of prosecution set forth in the Quayle action.

DISCUSSION

The file history and petition have been carefully considered. The claims as pending correspond to the second restriction requirement as follows:

Group I, claims 168-176, 195-203, drawn to antibody
Group II, claims 177 and 204, drawn to nucleic acid encoding an antibody
Groups III-VI, claims 178-194, 205-221, drawn to various methods of using the antibodies.

Applicant has requested that process claims 178-194 and 205-221 are considered for rejoinder. This request is premature. Rejoinder of process claims will be considered when all the product claims are in condition for allowance. See MPEP 821.04(b).

MPEP 803 sets forth the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Because the Office has already searched and examined claim 84 in the Office action mailed 5 April 2004, the examiner cannot now withdraw from consideration claims 168-177 and 195-203, which are encompassed by claim 84. The examiner appears to withdrawn claims 168-177 and 195-203 from consideration because they require substitutions. Claim 84 also required at least one substitution and claim 84 has already been examined on the merits.

Because the examiner has already searched and examined claim 104 drawn to nucleic acids which encode the antibody, the examiner cannot now withdraw from consideration claims 177 and 204, directed to nucleic acids which encode the antibody.

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

Product claims 168-177 and 195-204 will be rejoined for consideration, as they are directed to inventions which have already been examined on the merits in this particular application.

Rejoinder of the process claims 178-194 and 205-221 will be considered when all the product claims are in condition for allowance per MPEP 821.04(b).

The Quayle Office action mailed 22 December 2006 has been vacated as incomplete because it did not treat all the claims directed to the elected and examined invention on their merits.

The application will be forwarded to the examiner for further action consistent with this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist/Program Manager Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
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
DW JJ-06

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Seiichiro Higashi	:	
Application No. 10/011,292	:	DECISION ON PETITION
Filed: 11 December, 2001	:	
Atty Docket No. 111414	:	
	:	

This is a decision on the petition filed on 8 May, 2006, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 7 January, 2006, for failure to timely and properly reply to the final Office action mailed 6 October, 2005, which set a three (3) month shortened statutory period for reply. On 6 January, 2006, an amendment after final rejection was filed. However, the amendment did not place the

---

[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)).

application in *prima facie* condition for allowance. An Advisory Action was mailed on 24 February, 2006. A supplemental Advisory Action was mailed on 27 April, 2006. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and a copy of the previously-filed amendment after final as the required reply under 37 CFR 1.114.

Petitioner states that no fee should be required for the petition. However, the PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] As such, the requisite fee has been received and will not be refunded.

This application is being referred to Technology Center Art Unit 2812 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

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

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

SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Stephen Dirk Pacetti	: DECISION ON REQUEST FOR
Patent Number	: 7585516	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/011,346	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/12/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID LUNDMARK
HANSEN MEDICAL, INC.
380 NORTH BERNARDO AVENUE
MOUNTAIN VIEW, CA 94043

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
David Brock et al	:	
Application No. 10/011,371	:	DECISION GRANTING PETITION
Filed: November 16, 2001	:	UNDER 37 CFR 1.313(c)(2)
Atty Dkt No. 3000111-7031240001 (371)	:	

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3732 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

VISTA IP LAW GROUP LLP
12930 SARATOGA AVENUE
SUITE D-2
SARATOGA CA 95070

COPY MAILED

JUL 12 2007

OFFICE OF PETITIONS

In re Patent No. 7,090,683	:	
Issued: August 15, 2006	:	
Application No. 10/011,371	:	ON PETITION
Filed: November 16, 2001	:	
Attorney Docket No. 4818 CIP 02	:	

This is a decision on the petition filed February 22, 2007 under 37 CFR 1.28, requesting acceptance of a fee deficiency submission and loss of small entity status.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission in the amount of $700 has been applied and is hereby accepted under 37 CFR 1.28. In view thereof, 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Don Fishbein
Application No. 10/011,377
Filed: October 22, 2001
Attorney Docket No.
52427-A/JPW/GJG/HA

DECISION GRANTING PETITION

This is a decision on the petition filed April 5, 2002 (certificate of mailing March 26, 2002), requesting that the above-identified application be accorded a filing date of October 22, 2001, with pages 14 and 16 of the specification as part of the original disclosure.

On October 22, 2001, applicant filed the above-identified application. However, on February 4, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) (Notice), stating that pages 14 and 16 of the specification appeared to have been omitted.

In response, on April 5, 2002 (certificate of mailing March 26, 2002), applicant filed, inter alia, the present petition, copies of pages 14 and 16 of the specification, and the petition fee. The petition was accompanied by a copy of applicant's postcard receipt acknowledging receipt of 24 pages of specification on October 22, 2001.

In the present petition, applicant requested that the application, including pages 14 and 16 of the specification, be accorded a filing date of October 22, 2001, and the petition fee be refunded.

Upon review of the record, pages 14 and 16 of the specification, deposited on October 22, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 22, 2001, included pages 14 and 16 of the specification, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including pages 14 and 16 of the specification, was complete on filing and will be granted a filing date of October 22, 2001.

Accordingly, the petition is granted.

The Notice of February 4, 2002 was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 03-3125.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 22, 2001, using the pages 1-13, 15, and 17-24 of the specification submitted on October 22, 2001, and pages 14 and 16 submitted on April 5, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
APR 19 2004
OFFICE OF PETITIONS

In re Application of :
Don Fishbein :
Application No. 10/011,377 :
Filed: October 22, 2001 :
Attorney Docket No. 52427-A/JPW/GJG/HA :

ON PETITION

This is a decision on the petition, filed April 16, 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 February 27, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1614 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

COPY MAILED
SEP 23 2008

In re Application of
Park
Application No. 10/011,418
Filed: December 11, 2001
Attorney Docket No. SEC.738D
For: METHOD AND APPARATUS FOR HEATING A WAFER, AND METHOD AND APPARATUS FOR BAKING A PHOTORESIST FILM ON A WAFER

ON PETITION

This is a decision on the petition filed August 14, 2008 under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

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 Restriction Requirement, mailed August 10, 2005, which set an extendable period for reply of one (1) month or thirty days, whichever was longer. Having received no reply, the Office considered the application abandoned on September 11, 2005. A Notice of Abandonment was mailed on February 22, 2006.

The Office received a Change of Correspondence Address on July 13, 2005. Unfortunately, the Office did not promptly enter the change in address. This error resulted in the August 10, 2005 Restriction Requirement being mailed to the previous correspondence address of record and the subsequent return of the correspondence on August 16, 2005. The Change of Correspondence Address was not entered into Office databases until September 15, 2008.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center AU 3744 for the re-mailing of the August 10, 2005 Restriction Requirement with a new period set for reply.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

MIKE M. GAUTHIER
1264156 ONTARIO INCORPORATED
O/A INTEL-PRO DESIGN AND MFG.
959 ELISABELLA STREET, UNIT C,
SUDBURY ON P3A 5K1 CA CANADA

COPY MAILED
APR 3 0 2004
OFFICE OF PETITIONS

In re Application of
Marc J. Desjardins et al. :
Application No. 10/011,461 : ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. ISM :

This is a decision on the petition under 37 CFR 1.137(b) [1], filed April 24, 2004, to revive the above identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)".This is **not** a final agency decision.

This application became abandoned for failure to timely and properly respond to the non-

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

Final Office Action mailed October 29, 2002. Accordingly, a Notice of Abandonment was mailed July 21, 2003.

Petitioner files the instant petition pursuant to 37 CFR 1.137(b) indicating that the issue fee and publication fee had been previously submitted on or near April 25, 2003 however, the instant petition lacks item (1) of the regulation.

A Notice of Allowance and Notice of Allowability were mailed February 11, 2003 with a due date for the issue fee and corrected drawings not later than May 11, 2003. Petitioner is correct in noting that the issue fee, publication fee and drawings were filed April 23, 2003. However, on April 1, 2003 a Notice was mailed from the USPTO noting that the January 29, 2003 filing in response to the October 29, 2002 was non-responsive. The Notice of Allowance was thereby withdrawn and the applicant was advised that an appropriate amendment was due. The time for reply was set at 30 days with a request for a three month extension of time.

The instant petition was not filed with an appropriate amendment and until such time as an appropriate amendment, in response to the October 29, 2002 non-Final Office Action is filed, this application will remain in an abandoned status. No patent will issue until all requirements have been met.

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

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

By FAX: (703)872-9306
ATTN: Office of Petitions

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

MIKE M. GAUTHIER
1264156 ONTARIO INCORPORATED
O/A INTEL-PRO DESIGN AND MFG.
959 ELISABELLA STREET, UNIT C,
SUDBURY ON P3A 5K1 CA CANADA

COPY MAILED
JUN 2 2 2004
OFFICE OF PETITIONS

In re Application of
Marc J. Desjardins et al. :
Application No. 10/011,461 : ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. ISM :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed by facsimile transmission on June 2, 2004, to revive the above identified application.

The renewed 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 for failure to timely and properly respond to the non-Final Office Action mailed October 29, 2002. Accordingly, a Notice of Abandonment was mailed July 21, 2003.

A petition for revival and the petition fee, filed April 24, 2004, lacked the required reply as set out in 37 CFR 1.137(b)[1], in this case, an amendment in response to the non-Final

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

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

Office Action mailed October 29, 2002. The April 24, 2004 petition was dismissed in a decision mailed April 30, 2004. Petitioners claimed as they do on renewed petition that the required reply was submitted January 29, 2003, in the form of a marked-up version of the specification and a clean version of the same.

The marked-up version is a part of the record but no such clean version has been located amongst the file. Additionally, petitioner has not provided any proof that a clean version of the amendment was in fact timely filed in response to the non-Final Office Action.

In view thereof, until such time as an appropriate amendment, in response to the October 29, 2002 non-Final Office Action is filed, this application will remain in an abandoned status. No patent will issue until all requirements have been met.

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

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

By FAX: (703)872-9306
ATTN: Office of Petitions

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 4

In re Application of	:
Michael H. Wierer *et al*	: DECISION ON PETITION
Application No. 10/011,463	:
Filed: December 12, 2001	:
Attorney Docket No. 120-001	

This is a decision on the petition, filed concurrently with the application, by which petitioners request special status for this application resulting in advanced examination out of turn.

The petition is granted.

The basis for the petition is that the invention relates to an invention for countering terrorism. The petition satisfies the requirements established in MPEP 708.02(XI) for a petition on such grounds.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3727, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Jennifer Meredith
2565 Broadway #413
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
www.uspto.gov

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE, FL 32614-2950

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Andrew Goldsborough :
Application No. 10/011,495 :
Filed: October 26, 2001 :
Attorney Docket No. US1.GOLDSBOROUGH :

ON PETITION

This is a decision on the petition, filed September 30, 2004, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed September 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed PCT applications set forth in the amendment filed concurrently with the instant petitions.

The petitions are **GRANTED.**

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

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

Petitioner is advised that the issue fee paid on August 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[2]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on October 26, 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 application data sheet and an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c), to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

---

[2] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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.

Additionally, petitioner should note that it is impermissible and improper to include a claim for foreign priority in an amendment to the specification for the 120 benefits. Nevertheless, benefit of the aforementioned foreign applications was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center Art Unit 1637 will consider the request for continued examination under 37 CFR 1.114, and applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

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

COPY MAILED

OCT 07 2004

OFFICE OF PETITIONS

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
P.O. BOX 142950
GAINESVILLE, FL 32614-2950

In re Application of	:	
Andrew Goldsborough	:	
Application No. 10/011,495	:	ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. US1.GOLDSBOROUGH	:	

This is a decision on the petition, filed September 30, 2004, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed September 30, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed PCT applications set forth in the amendment filed concurrently with the instant petitions.

The petitions are **GRANTED**.

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

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

Petitioner is advised that the issue fee paid on August 5, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

---

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

1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[2]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on October 26, 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 application data sheet and an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c), to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

---

[2] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

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.

Additionally, petitioner should note that it is impermissible and improper to include a claim for foreign priority in an amendment to the specification for the 120 benefits. Nevertheless, benefit of the aforementioned foreign applications was properly placed under the section for priority, and, therefore, will only be entered as such in Office records.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

The examiner of Technology Center Art Unit 1637 will consider the request for continued examination under 37 CFR 1.114, and applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications.

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

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS
NEW YORK NY 10020-1105

COPY MAILED
NOV 25 2005
OFFICE OF PETITIONS

In re Application of
Damon Lee
Application No. 10/011,504
Filed: November 6, 2001
Attorney Docket No. LT-99

DECISION ON PETITION

This is in response to the petition, filed October 6, 2005, to revive an unintentionally abandoned application under 37 CFR 1.137(b).

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

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on July 5, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on October 6, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee together with the issue fee, and made a statement of unintentional delay.

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

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/16/08

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/011511 Patent No.: 7010715 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

/Scott T. Baderman/ — **SPE**

2114 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Morrison & Foerster, LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

JAN - 7 2003

In re Application of:	:	
Baer *et al.*	:	
Application No. 10/011,515	:	DECISION ON REQUEST TO
Filed: November 5, 2001	:	WITHDRAW FROM RECORD
Attorney Docket No. 485772004100	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed September 23, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 meets all the above stated requirements. The request was signed by Thomas E. Ciotti on behalf of all attorneys of record and there is no outstanding Office action requiring a response by the applicant.

Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to Rimas Lukas 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: Rimas Lukas
P.O. Box 3295
Half Moon Bay, CA 94019

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rimas Lukas
P.O. Box 3295
Half Moon Bay CA 94019

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Baer, et al.	:	
Application No. 10/011,515	:	DECISION ON PETITION
Filed: November 15, 2001	:	TO WITHDRAW
Attorney Docket No. ARC01-20041.00	:	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 20, 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 Rimas T. Lukas on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application.

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

All future correspondence will be directed to the first named inventor Thomas M. Baer at the address indicated below.

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 an outstanding Office action mailed April 20, 2006 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Thomas M. Baer
537 Drucilla Drive
Mountain View, CA 94040

cc: FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

092004

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Application of
Yuri Erokhin et al.
Application No.: 10/011,518
Filed: December 11,2001
Attorney Docket No.: **101361-0044**

WITHDRAWAL FROM ISSUE
37 C.F.R. § 1.313

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance and Fee(s) Due in order to prevent abandonment of the application.

Telephone inquiries should be directed John Niebling, Supervisory Patent Examiner, at (571) 272-1679.

The examiner will notify applicant of the new status of this application in an Office action to be issued promptly.

Sharon Gibson, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

COPY MAILED

JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Tao CHEN	:	
Application No. 10/011,519	:	ON PETITION
Filed: November 5, 2001	:	
Attorney Docket No. PA010005	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2007, 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 October 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 4, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue and Publication Fee(s); (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ACCENTURE
C/O VEDDER PRICE KAUFMAN & KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO IL 60601

COPY MAILED

FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael B. Elliott, et al.	:	
Application No. 10/011,523	:	ON PETITION
Filed: November 5, 20001	:	
Attorney Docket No. 33836.00.0020	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to a final Office action mailed October 8, 2004. A Notice of Abandonment was mailed on August 11, 2006.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 3628 for further processing of the request for continued examination under 37 CFR 1.114 filed September 6, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 2 5 2010

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

In re Application of:	:	
Garth F. Schmeling et al.	:	
Application No. 10/011,524	:	**DECISION ON PETITION**
Filed: November 5, 2001	:	**UNDER 37 CFR 1.181**
For: SECURE AND MEDIATED ACCESS	:	
FOR E-SERVICES	:	

This is a decision in response to the submission denominated "Petition to Accept Reply Brief under 37 CFR 1.182" received on December 16, 2009. The paper is being treated as a petition under 37 CFR 1.181 to accept a late paper.

The petition is **DISMISSED.**

Background

A review of the file record indicates that an Examiner's Answer to an Appeal Brief was mailed October 15, 2009. A Reply Brief was filed December 16, 2009, which is beyond the two month time limit for filing a Reply Brief.

Applicable Regulations

37 CFR 41.41. Reply brief.

(a)(1) Appellant may file a reply brief to an examiner 's answer within two months from the date of the examiner 's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings

1208 [R-3] Reply Briefs and Examiner's Responses to Reply Brief<

I. REPLY BRIEF

Under 37 CFR 41.41(a)(1) and 41.43(b), appellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer or supplemental examiner's answer. Extensions of time to file the reply brief may be granted pursuant to 37 CFR 1.136(b) (for patent applications) or 1.550(c) (for ex parte reexamination proceedings). Extensions of time under 37 CFR 1.136(a) are not permitted. The examiner may provide a supplemental examiner's answer to respond to any reply brief that raises new issues. See MPEP § 1207.05. Normally, appellant is not required to file a reply brief to respond to an examiner's answer or a supplemental examiner's answer, and if appellant does not file a reply brief within the two month period of time, the application will be forwarded to the Board for decision on the appeal

Decision

Petitioner requests the entry of the Reply Brief filed December 16, 2009. Petitioner asserts that the filing of the Reply Brief was unintentionally delayed beyond the two month time limit due to an inadvertent docketing error. Petitioner further asserts that the reply brief had been completed since December 9th, as evidenced by an e-mail shown in the Appendix to the petition.

As set forth in MPEP 1208, under 37 CFR 41.41(a)(1), appellant may file a reply brief as a matter of right within two (2) months from the mailing of the examiner's answer. Under 37 CFR 41.41(b), a reply brief that is not in compliance with paragraph (a) of this section will not be considered. There are no provisions in the CFR or MPEP which provides an avenue for appellant to file reply brief outside the two month time limit set forth in 37 CFR 41.41(a)(1). The reason petitioner has provided as to why the reply brief was not timely filed is deemed to be insufficient. Petitioner has indicated that the reply brief "has been completed since December 9th." Accordingly, petitioner could have filed the reply brief within the two month time period which expired December 15, 2009. Accordingly, petitioners request for acceptance of the reply brief filed December 16, 2009 is dismissed.

The application will be forwarded to the examiner for treatment of the non-compliance reply brief filed December 16, 2009.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WG/tl: 1/21/10

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

NOV 23 2004

OFFICE OF PETITIONS

In re Application of	:
Rissmann et al.	:
Application No. 10/011,533	: DECISION GRANTING PETITION
Filed: November 5, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1201.1120101	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 23, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/940,471, filed August 27, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 5, 2001, and was pending at the time of filing of the instant petition. A reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

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

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

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at ((571) 272-3282.

This matter is being referred to Technology Center Art Unit 3762 to await a reply to the outstanding final Office action mailed September 28, 2004. Failure to timely reply will result in the abandonment of the application.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:
Gust H. Bardy et al	:
Application No. 10/011,566	: DECISION ON PETITION
Filed: November 5, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 032580.0009.CIP	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 25, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 5, 2001, and was pending at the time of filing of the instant petition. A reference to 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 prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to 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 benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (517) 272-3220.

This matter is being referred to Technology Center Art Unit 3762 for appropriate action on the amendment filed June 29, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

OCT 0 7 2004

OFFICE OF PETITIONS

In re Application of	:
Gust H. Bardy et al	:
Application No. 10/011,566	: DECISION ON PETITION
Filed: November 5, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 032580.0009.CIP	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 25, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on November 5, 2001, and was pending at the time of filing of the instant petition. A reference to 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 prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to 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 benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Wan Laymon at (517) 272-3220.

This matter is being referred to Technology Center Art Unit 3762 for appropriate action on the amendment filed June 29, 2004, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of	:
Arthur H. Werkheiser et al	:
Application No. 10/011,573	: DECISION GRANTING PETITION
Filed: October 22, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 332-2480	:

This is a decision on the petition under 37 CFR 1.137(b), filed December 15, 2003, to revive the above-identified application.[1]

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 5, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 6, 2003.[2]

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

---

[1] The originally filed petition to revive, petition for extension of time, CPA request, preliminary amendment and information disclosure statement evidenced as having been received in the USPTO on September 29, 2003 have not yet been associated with the instant file. Accordingly, in view of the evidence submitted, the instant petition and accompanying correspondence will be treated as having been received in the USPTO on September 29, 2003.

[2] The evidence submitted is sufficient to establish that a timely reply to the final Office action of March 5, 2003 bearing a certificate of mailing date of June 5, 2003 was received on June 9, 2003. However, as noted in the Notice of Abandonment mailed September 29, 2003, the amendment was not deemed to place the application in condition for allowance.

Examination (RCE)[3] and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of March 5, 2003 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 $930 extension of time submitted with the petition on September 29, 2003 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

The application file is being forwarded to Technology Center AU 2839 for processing the RCE and for appropriate consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks

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

---

[3] As noted in 1271 *Official Gazette* 143, the filing of a Continued Patent Application (CPA) pursuant to the provisions of 37 CFR 1.53(d) as to utility and plant applications was eliminated effective July 14, 2003. Effective July 14, 2003, 37 CFR 1.53(e)(1) was amended to provide that if a request for an application under 37 CFR 1.53(d) (a CPA) does not meet the requirements of § 1.53(d) because the application in which the request was filed is not a design application, and if the application in which the request was filed was itself filed on or after June 8, 1995, the request for an application under § 1.53(d) will be treated as an RCE under § 1.114. Accordingly, the request for a CPA accompanying the instant petition will be treated as a request for an RCE pursuant to the provisions of 37 CFR 1.114.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LANIER FORD SHAVER & PAYNE
P O BOX 2087
HUNTSVILLE, AL 35804

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of :
Arthur W. Werkheiser et al :
Application No. 10/011,573 : DECISION GRANTING PETITION
Filed: October 22, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 332-2480 :

This is a decision on the petition, filed May 9, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 15, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Welsh & Katz, Ltd.
Jon P. Christensen
22nd Floor
120 South Riverside Plaza
Chicago IL 60606

COPY MAILED

NOV 20 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dezonno et al.
Application No. 10/011,578
Filed: November 5, 2001
Attorney Docket No.: 6065-82966

This is a decision on the petition under 37 CFR 1.137(b), filed September 27, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 24, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. A two month extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 25, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEDTRONIC VASCULAR, INC.
IP LEGAL DEPARTMENT
3576 UNOCAL PLACE
SANTA ROSA CA 95403

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Gholam-Reza Zadno-Azizi	:	
Application No. 10/011,583	:	ON PETITION
Filed: November 6, 2001	:	
Attorney Docket No. PERCUS.009C3	:	

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

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

The examiner of Technology Center AU 3761 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

APPLIED MATERIALS INC
LEGAL AFFAIRS DEPARTMENT
PO BOX 405A
SANTA CLARA CA 95052

COPY MAILED

AUG 2 6 2003

OFFICE OF PETITIONS

In re Application of:
Black et al.
Application No. 10/011,590
Filed: November 6, 2001
Docket No. 05542-132003

ON PETITION

This is a decision on the petition filed November 6, 2001, to accord this application status under 37 CFR 1.47.

The petition is granted. The delay is regretted.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application and its progeny are hereby accorded Rule 1.47(a) status. Under the rules currently in effect, the favorable decision in the parent application carries to the instant application. To facilitate further processing, the undersigned has prepared a copy of the decision according Rule 47 status in parent application No. 09/328,503 and has placed it in this file, to render the instant oath or declaration, which is a copy of that from the parent application, acceptable. See 37 CFR 1.63(d)(3). As noted in MPEP 201.06(c), the USPTO will not repeat the notice to the nonsigning inventor nor repeat the announcement in the Official Gazette.

This application is being forwarded to Technology Center AU 1753.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

SPE: B. Shalwala

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/22/04

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/014,593 Patent No.: 7042439

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: _____

RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2629
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

Anthony R. Johnson
Suite 3
Eagle Center One
O'Fallon IL 62269

COPY MAILED

MAY 20 2002

OFFICE OF PETITIONS

In re Application of
Strayer
Application No. 10/011,596
Filed: December 3, 2001
Attorney Docket No. ARJ-011202

DECISION ON
PETITION

This is a decision on the petition entitled, "PETITION TO REVIEW NONPROVISIONAL APPLICATION PAPERS," filed February 13, 2002 (certificate of mailing date January 25, 2002), requesting that pages 15 and 16 of the specification be accorded a filing date of December 3, 2001.

The application was deposited on December 3, 2001. On January 11, 2002, the Office of Initial Patent Examination mailed a " Notice to File Missing Parts of Nonprovisional Application" requiring an executed oath and informing petitioner that pages 15 and 16 appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition on February 13, 2002 (certificate of mailing date January 25, 2002). Petitioner requests the December 3, 2001 filing date for pages 15 and 16 on the basis that the allegedly omitted pages were received in the Patent and Trademark Office (PTO) on December 3, 2001. In support, the petition is accompanied by a copy of applicant's postcard receipt showing an Office of Initial Patent Examination generated bar code listing December 3, 2001 as the date of receipt.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. MPEP 503. The itemized postcard in this case was not properly itemized. The return postcard in this case does not mention the number of pages in the specification. Therefore, the Office has no way of verifying what specifically was filed on December 3, 2001.

Since pages 15 and 16 were not a part of the papers filed on

December 3, 2001, the application cannot be accorded the December 3, 2001 filing date with either of those pages as a part of the original disclosure of this application.

The petition is dismissed.

Of course, applicant may submit pages 15 and in the form of an amendment (see 37 CFR 1.121) for consideration by the examiner to determine whether or not the pages contain new matter compared to the original specification and drawings filed on December 3, 2001.

The application is being returned to the Office of Initial Patent Examination to await receipt of an executed declaration, as was required by the Notice to File Missing Parts of Nonprovisional Application, mailed January 11, 2002.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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

DATE: 8-27-07 APPLICATION NUMBER: 10/011,601

DOC CODE: PET.DEL.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

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ASHLEY LAURENT INC.
5914 W. COURT YARD DR.
SUITE 200
AUSTIN, TX 78730

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

In re Application of Yang :
Application No. 10/011,601 :
Filing Date: November 5, 2001 :
Attorney Docket No. 032203.0002 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 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 June 17, 2005, 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 as of midnight on Monday, September 19, 2005. A Notice of Abandonment was mailed on March 23, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the non-final Office action. 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 Tom Chen signed the petition. Attorney Chen was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Chen was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Chen 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

[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).

an inquiry. If such inquiry results in the discovery that a portion of 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.

There is no indication Attorney Tom Chen was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If Attorney Chen wishes 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 address on the 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.

Technology Center Art Unit 2134 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

cc: Tom Chen
MacPherson Kowk Chen & Heid LLP
2033 Gateway Place, Suite 400
San Jose, CA 95110

#26

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

Law Office of Douglas W. Rudy
Suite 300
14614 North Kierland Boulevard
Scottsdale, AZ 85254

MAILED

AUG 14 2003

Office of the Director
Group 3600

In re Application of
Phillip R. Scott et al.
Application No. 10/011,639
Filed: December 6, 2001
For: AUTOMATICALLY ADJUSTING SHAKER HEAD HARVESTER WITH STEERING CORRECTION AND IMPROVED SHAKER HEAD MOUNTING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office (USPTO), on March 24, 2003

The petition is **DISMISSED.**

A review of the file record reveals that an Office action was mailed to applicants on August 20, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, although a Notice of abandonment has yet been mailed.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of November 20, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The practitioner has failed to comply with requirement (3) indicated above.

To satisfy requirement (3) above, a docket record showing **all** actions due by the **Law Office of Douglas W. Rudy** at and around the due date of November 20, 2002, needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

snm/tpl: 8/11/03

9200/3671
DAC

#8
Petr
(1)
Ann
1/28/04
BZ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC10
AUG 27 2003
PATENT & TRADEMARK OFFICE

Applicant: Philip R. Scott
Franklin P. Orlando
Kevin M. Caine
Marty D. Youman

Art Unit: 3671

Examiner: M. Petrazick

Serial No.: 10/011,639

Filed: December 6, 2001

Title: Automatically Adjusting Shaker Head Harvester with Steering Correction and Improved Shaker Head Mounting

---

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

RECEIVED
SEP 03 2003
GROUP 3600

Request for Reconsideration of Decision on Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181

Dear Sir:

A "Decision on Petition to Withdraw the Holding of Abandonment" was mailed from the USPTO on August 14, 2003.

Applicant's request dated March 24, 2003, to have the Office Action of August 20, 2002 resent to him, the request having been treated as a Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181, stands dismissed.

It appears that the showing required to establish non-receipt of an Office communication, in this case, an Office Action, turns on three requirements.

The first requirement is a statement from applicants' attorney that the communication was not received. This was done in my communication of March 24, 2003 where I stated; "In the situation at hand, the Applicant's attorney believes that the Office Action of August 20, 2002, was never delivered to the address for correspondence." (Page 2, first sentence of the fourth paragraph). I believe that the March 24, 2003 communication from me to the PTO and this Request answer and comply with the first requirement.

The second requirement is a statement that a search of the file jacket and docket records indicate that the Office communication was not received. The fact that this search was also done is likewise stated in my communication of March 24, 2003. I state; "Upon looking at the file I determined that there was no indication of any pending Office Action and no copy of the Office Action sent on August 20, 2002." (Page 1, first sentence of the second paragraph). As to looking at the docket, a detailed discussion of my docketing system is set forth. Also mention is made that a Pending Case List is compiled and kept up to date. I then go on to state that, "No indication of an Office Action pertaining to Ser. No. 10/011,639 appears in the Pending Case List. (Page 2, third sentence of the third paragraph). Perhaps I should have also stated that I reviewed my docket record and there is no indication that the Office Action of August 20, 2002 was received and needed to be acted on...it did not, and does not, appear on my docket during the time under consideration.

The third requirement is that a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must also be attached to and referenced in my statement. I was not aware of this requirement. Consequently, in my correspondence of March 24, 2003 I did not attach a copy of my docket.

An explanation of my practice may be helpful in understanding my procedures is handling PTO correspondence. I am a sole practitioner. I rent office space from another patent attorney, Mr. Louis J. Hoffman. My monthly rent in 2002 included the services of an assistant, Ms. Jeri Foster, whom I shared, on an informal basis, with another attorney. I also had the services of a paralegal, Mrs. Shalyn Weldy, whose duties included the docketing function.

Ms. Foster spent the bulk of her time supporting my practice and me. There were, during the time frame we are concerned with, several other attorneys, two patent attorneys and two non-patent attorneys, in the same suite of offices. Even though I am an independent attorney, I worked frequently with the other attorneys. Our primary client was the Lemelson Foundation Partnership and I worked on licensing matters of the Lemelson Patent Portfolio and patent prosecution of inventions made by Mr. Lemelson. I was also involved, to a minor extent, in litigation related to Lemelson. All the attorneys knew I was involved in patent prosecution and each knew the importance of close control of correspondence, particularly correspondence from the Patent Office. The importance of this is to explain that my association with the other attorneys in the suite was very open and if any one of them, or any of the assistants or paralegals received correspondence addressed to me they would just walk it over to me or to my assistant. The personnel working in the office, the attorneys, paralegals and assistants, had a very open working relationship.

As mail was received for me, that is mail addressed to me, it would be either initially picked up from our mail box, one of many boxes located in a bank of boxes for access by the many tenants in the building, by Ms. Foster or, if picked up by another assistant from our offices, would be delivered to Ms. Foster. The mailboxes are clustered as a bank of mailboxes, as well as an outgoing mail drop slot, located in a publicly accessible area near the entrance of the building.

Ms. Foster opened my mail and delivered it to me. Anything from the Patent and Trademark Office was given a cursory review by me and then placed, by Ms. Foster, or me, in Mrs. Weldy's special docket "in-basket" for docketing. No other mail would be placed in this docket "in-basket." Mrs Weldy performed docketing as outlined in my March 24, 2003 communication.

My docket was printed out by Mrs. Weldy and delivered to me, with a copy to Ms. Foster, periodically. Mrs. Weldy would also provide docket printouts for the other patent practitioners in the office. Thus if there was a docket entry relating to this application on one of the other practitioner's dockets I'm sure they would question the entry, bring it to Mrs. Weldy's attention and she would resolve any issue. I have no reason to believe that an incorrect docket entry was made by Mrs. Weldy. There are just too many opportunities to find the problem or to have a problem surface, before any due date is missed.

The Decision of August 14, 2003 indicates that to satisfy the third requirement, a docket record showing all actions due by the Law Office of Douglas W. Rudy at or around that due date of November 20, 2002, needs to be supplied. A copy of my docket in the pertinent time period is attached. In my earlier communication I incorrectly stated that the docket was printed once a week. In looking at my docket the frequency of printouts is more like once a month. I review my docket at least once a week, as did Ms. Foster. The printouts attached hereto are my actual docket records, some unrelated dates are redacted, for the months of September, October, and December, 2002 (I don't have a docket report for November, 2002, neither does the independent docket kept by my assistant, Ms. Foster). It is probable that no docket was printed for me in November as I was attending a trial, out of state, for the month of November and keeping in contact with my assistant by phone and email. Also included are my docket reports for January and February of 2003. Those months, and November of course, would be the period under consideration. It is clear that there is no reference to an Office Action dated August 20, 2003 relating to Application No. 10/011,639.

I do not believe that the Office Action was not sent, but am as confident as can be that the Office Action never made it to this office. I have no idea why it didn't get here,

but sincerely believe that if it did make it to our office suite, the communication would have been properly handled by the staff and by me.

With this submission it is believed that all the requirements of the Patent Office have been complied with. Applicants therefore request that the holding of abandonment of this application be withdrawn and that the Office Action be resent for a proper response.

Respectfully submitted,

PHILLIP R. SCOTT
FRANKLIN P. ORLANDO
KEVIN M. CAINE
MARTY D. YOUMAN
By their attorney

Dated: August 24, 2003

Douglas W. Rudy
Reg. No. 26,989

LAW OFFICES OF DOUGLAS W. RUDY
14614 North Kierland Boulevard
Suite 300
Scottsdale, Arizona 85254
602.741.8963

Attachment (Pages from Docket)

Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 24, 2003.

Signature
Douglas W. Rudy

10/9/02 — Satterfield - 09/776,122

Done Respond to OA (one month deadline)

9/26/02 Rossi
(Month 6) Spark Plug - Need to file IDS
DWR

CONFIDENTIAL

9/30/02 Satterfield 885,649
(Month 3) FLUID EMULSIFICATION SYSTEMS - Respond to Office
DWR Action dated 6/28/02 Done Sept 30, 2002

10/1/02 Ag Right 000105301
(Month 5) ARGENTINA - Response to Office Action must be to
DWR Clarke, Modet by 11/01/02 to meet 11/11/02 deadline.

10/4/02 Sportlite 76/325,035
(Month 4) PULSEBLOC - File Statement of Use in response to Notice
DWR of Allowance dated 6/4/02

10/10/02 Lemelson 603,300
(Month 4) GPS - Respond to Office Action dated 6/10/02
DWR Who has this?

10/11/02 Lemelson 09/750,458
(Month 4) FUZZY - File continuation, if necessary. NOA received
DWR 6/11/02

10/17/02 Lemelson 081,269
(Month 3) EYE - Respond to Office Action dated 7/17/02
DWR

10/21/02 Rossi 76/312,667
(Month 2) TOPFIRE - File Statement of Use in response to Notice of
DWR Allowance dated 8/20/02

CONFIDENTIAL

11/5/02 Stone, Lynda 76/114,709
(Month 2) CODEMED - File Statement of Use in response to Notice of
DWR Allowance dated 3/5/02
[Filed Extension of Time 9/5/02]

11/5/02 Stone, Lynda 76/115,423
(Month 2) CODE3MED - File Statement of Use in response to Notice
DWR of Allowance dated 3/5/02
[Extension of time filed 9/05/02]

12/19/02 Barts Works 5,967,536
(Month 2) 4 year Maintenance fee due (without surcharge)
DWR

10/11/02 Lemelson 09/750,458
(Month 4) FUZZY - File continuation, if necessary. NOA received
DWR 6/11/02

CONFIDENTIAL

10/17/02 Lemelson 081,269
(Month 3) EYE - Respond to Office Action dated 7/17/02
DWR

10/21/02 Rossi 76/312,667
(Month 2) TOPFIRE - File Statement of Use in response to Notice of
DWR Allowance dated 8/20/02

— Rossi Responsibility

11/1/02 Ag Right 000105301
(Month 6) ARGENTINA - Response to Office Action must be to
DWR Clarke, Modet by 11/01/02 to meet 11/11/02 deadline.

Done

11/4/02 Sportlite 76/325,035
(Month 5) PULSEBLOC - File Statement of Use in response to Notice
DWR of Allowance dated 6/4/02

Do this.

11/5/02 Stone, Lynda 76/114,709
(Month 2) CODEMED - File Statement of Use in response to Notice of
DWR Allowance dated 3/5/02
[Filed Extension of Time 9/5/02]

11/5/02 Stone, Lynda 76/115,423
(Month 2) CODE3MED - File Statement of Use in response to Notice
DWR of Allowance dated 3/5/02
[Extension of time filed 9/05/02]

11/11/02 Lemelson 603,300
(Month 5) GPS - Respond to Office Action dated 6/10/02
DWR

CONFIDENTIAL

11/18/02 Ag-right 145,946
(Month 2) Respond to Office Action dated 9/16/02
DWR

12/19/02 Barts Works 5,967,536
(Month 2) 4 year Maintenance fee due (without surcharge)
DWR

~~**12/10/02** Lemelson 603,300~~ ED SAID DONE 11-12-02
~~(Month 6) GPS - Respond to Office Action dated 6/10/02~~
DWR

12/11/02 Lemelson 09/750,458 Done?
(Month 6) FUZZY - File continuation, if necessary. ~~NOA received~~
DWR 6/11/02
Done
ISSUE FEE PAID SEPT 9, 2002

12/16/02 Ag-right 145,946 YOU MUST HAVE TAKEN THIS FILE WITH YOU.
(Month 3) Respond to Office Action dated 9/16/02
DWR
DONE

12/17/02 Lemelson 081,269
(Month ~~5~~ 6) EYE - Respond to Office Action dated 7/17/02 DECIDE
DWR
DO THIS ON FRIDAY.

12/18/02 Satterfield 885,649
(Month 2) File Issue Fee in response to NOA dated 10/18/02.
DWR
DOUG TO DO.
DONE

12/19/02 Barts Works 5,967,536
(Month 2) 4 year Maintenance fee due (without surcharge)
DWR

12/20/02 Rossi 76/312,667
(Month 4) TOPFIRE - File Statement of Use in response to Notice of
DWR Allowance dated 8/20/02

CONFIDENTIAL

12/20/02 Ag-right 62461/00
(Month 4) AUSTRALIA - File Request for Examination by 2/20/03.
DWR

12/26/02 Rossi NOT DOING
(Month 3) ~~Spark Plug - Need to file IDS (second six month period)~~
~~DWR~~

1/6/03 Stone, Lynda 76/114,709
(Month 4) CODEMED - File Statement of Use in response to Notice of
DWR Allowance dated 3/5/02
[Filed Extension of Time 9/5/02]

1/6/03 Stone, Lynda 76/115,423
(Month 4) CODE3MED - File Statement of Use in response to Notice
DWR of Allowance dated 3/5/02
[Extension of time filed 9/05/02]

1/6/03 Lemelson 720,662
(Month 2) HUD - Respond to Office Action dated 11/4/02
DWR

1/16/03 Ag Right 10/145,943
(Month 2) Automatically Adjusting Shaker Head - File for foreign
DWR protection by 5/16/03

1/16/03 Ag Right 151,680
(Month 2) File for foreign protection by 5/16/03
DWR

1/27/03 Rossi
(Month 4) Spark Plug - Need to file IDS (second six month period)
DWR

1/27/03 Satterfield 776,122 Do
(Month 2) Respond to **FINAL** OA dated 11/25/02.
DWR

2/4/03 Lemelson 720,662 Call Dolly
(Month 3) HUD - Respond to Office Action dated 11/4/02
DWR

S' 20-30,000

2/5/03 Stone, Lynda 76/114,709
(Month 5) CODEMED - File Statement of Use in response to Notice of
DWR Allowance dated 3/5/02
[Filed Extension of Time 9/5/02] ???
No

2/5/03 Stone, Lynda 76/115,423
(Month 5) CODE3MED - File Statement of Use in response to Notice
DWR of Allowance dated 3/5/02
[Extension of time filed 9/05/02] ???
No

2/12/03 Lemelson 911,064
(Month 2) FUZZY - File Issue Fee in response to Notice of Allowance
DWR dated 12/12/02.

2/17/03 Ag Right 10/145,943
(Month 3) Automatically Adjusting Shaker Head - File for foreign
DWR protection by 5/16/03

CONFIDENTIAL

2/17/03 Ag Right 151,680
(Month 3) File for foreign protection by 5/16/03
DWR

2/17/03 Lemelson 603,300 Ed has File / Office Action Sent to him
(Month 2) GPS - Respond to FINAL Office Action dated 12/16/02.
DWR

2/18/03 Clements 016,150 Contact
(Month 2) Respond to Office Action dated 12/18/02.
DWR

2/19/03 Barts Works 5,967,536
(Month 4) 4 year Maintenance fee due (~~without surcharge~~)
DWR
CALL HIM

2/19/03 Lemelson 090,682 ED has this file
(Month 3) RECORDING - File Issue Fee in responce ~~to Notice~~ of
DWR Allowance dated 11/19/02.
DOUG HAS N.O.A. DOUG TO PAY.

2/20/03 ~~Rossi~~ 76/312,667
(Month 6) TOPFIRE - File Statement of Use in response to Notice of
DWR Allowance dated 8/20/02
Requested extension. $100.00

2/20/03 Ag-right 62461/00 Follow-Up
(Month 6) AUSTRALIA - File Request for Examination by 2/20/03.
DWR
Done

2/17/03 Ag Right 10/145,943
(Month 3) Automatically Adjusting Shaker Head - File for foreign
DWR protection by 5/16/03

CONFIDENTIAL

2/17/03 Ag Right 151,680
(Month 3) File for foreign protection by 5/16/03
DWR

3/16/03 Done By DWR 3/17/03 TD/Fee/Award/Postcard.

Phone call to Ed. 3/17/2003 Need to file a corrected T. DeCamer.

2/17/03 Lemelson 603,300
(Month 3 2) GPS - Respond to FINAL Office Action dated 12/16/02
DWR 3/12/03 Talked to Ed. This is in pile he has to send to me.

Sent email to Ed 2/25/03 (in "To file" folder") : Ed has file EOA (✓ with him)

3 **2/18/03** Clements 016,150
(Month 2) Respond to Office Action dated 12/18/02.
DWR 3

Due MARCH 18

Done 3/18/2003 DWR

2/19/03 Barts Works 5,967,536
(Month 4) 4 year Maintenance fee due (without surcharge)
DWR 2/19/03 Called and left a message Asky him to call me.

- HP motor sports - 402.731.7301

520.625.3331 (Tom)

2/19/03 Lemelson 090,682
(Month 3) RECORDING - File Issue Fee in responce to Notice of
DWR Allowance dated 11/19/02.

Done 2/19/2003 DWR.

2/20/03 Rossi 76/312,667
(Month 6) TOPFIRE - File Statement of Use in response to Notice of
DWR Allowance dated 8/20/02

Done date.

CONFIDENTIAL

2/20/03 Ag-right 62461/00
(Month 6) AUSTRALIA - File Request for Examination by 2/20/03.
DWR

done date?

2/25/03 Satterfield 776,122
(Month 3) Respond to **FINAL** OA dated 11/25/02.
DWR

Done 2/25/03

2/26/03 Rossi
(Month 5) Spark Plug - Need to file IDS (second six month period)
DWR

3/3/03 Ag-Right 145,946
Respond to Office Action dated 2/3/03 **[NOTE: 30 DAY DEADLINE]**
DWR

Done 2/21/03

Do This

3/4/03 Lemelson 720,662
(Month 4) HUD - Respond to Office Action dated 11/4/02
DWR

3/5/03 Stone, Lynda 76/114,709
(Month 6) CODEMED - File Statement of Use in response to Notice of Allowance dated 3/5/02
DWR
[Filed Extension of Time 9/5/02]

Done 3/5/03

3/5/03 Stone, Lynda 76/115,423
(Month 6) CODE3MED - File Statement of Use in response to Notice of Allowance dated 3/5/02
DWR
[Extension of time filed 9/05/02]

Done 3/5/03

3/12/03 Lemelson 911,064
(Month 3) FUZZY - File Issue Fee in response to Notice of Allowance
DWR dated 12/12/02.
Please make a note that we should file a Continuation.
PAID 3/12/03

4 **3/28/03** Lemelson 910,313
(Month 2) EYE - Respond to OA dated 1/28/03.
DWR

CONFIDENTIAL

5/12/03 AG - Right Appln. No. 01 01 01405 (Argentina)
Argentina. file response to letter of 12/19/02
from Clarke Model re

UNITED STATES PATENT AND TRADEMARK OFFICE

#9

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

MAILED

JAN 2 8 2004

Office of the Director
Group 2900

LAW OFFICE OF DOUGLAS W. RUDY
Suite 300
14614 North Kierland Boulevard
Scottsdale, AZ 85254

In re Application of
Phillip R. Scott et al.
Application No. 10/011,639
Filed: December 6, 2001
For: AUTOMATICALLY ADJUSTING SHAKER HEAD HARVESTER WITH STEERING CORRECTION AND IMPROVED SHAKER HEAD MOUNTING

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on August 27, 2003.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicants on August 20, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on August 22, 2003.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, were in fact delivered to the addressee. An allegation that the an Office communication(s) was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of November 20, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office action was not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Applicant has submitted a copy of the docket records where the non-received Office action would have been entered as being due on and around the date of November 20, 2002. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office Action of August 20, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Kenneth J. Dorner, Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF DONALD L. WENSKAY
P.O. BOX 7206
RANCO SANTA FE, CA 92067

COPY MAILED

JAN 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Afshan Ally et al	:	
Application No. 10/011,649	:	ON PETITION
Filed: December 3, 2001	:	
Attorney Docket No. CA9-2000-0066	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 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 January 21, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 22, 2005.

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

This matter is being referred to Technology Center AU 2155 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 07 2010

OFFICE OF PETITIONS

LAW OFFICE OF DONALD L. WENSKAY
P.O. BOX 7206
RANCO SANTA FE, CA 92067

In re Application of	:	
Afshan Ally et al	:	
Application No. 10/011,649	:	ON PETITION
Filed: December 3, 2001	:	
Attorney Docket No. CA9-2000-0066	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2009, 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 7, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 8, 2009.

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

This matter is being referred to Technology Center AU 2455 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MARTIN & FERRARO LLP
SUITE 300
14500 AVION PARKWAY
CHANTILLY, VA 20151-1101

COPY MAILED

APR 2 3 2003

OFFICE OF PETITIONS

In re Application of
Gary Karlin Michelson
Application No. 10/011,652
Filed: December 11, 2001
Attorney Docket No. 101.0073-00000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 14, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US01/03657, filed February 5, 2001 set forth in the amendment filed concurrently with the instant petition.

The petition is DISMISSED.

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

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

[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).

> unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The reference to the above-noted, prior-filed application was not included in the manner specified in 37 CFR 1.78(a)(2)(iii) (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).

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on April 14, 2003. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment [2] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

In order to expedite consideration, petitioner may wish to submit the substitute amendment and renewed petition by facsimile transmission to the number indicated below and to the attention of Karen Creasy.

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

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

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

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

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

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

---

[2]Note 37 CFR 1.21

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MARTIN & FERRARO LLP
SUITE 300
14500 AVION PARKWAY
CHANTILLY, VA 20151-1101

COPY MAILED

JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of
Gary Karlin Michelson
Application No. 10/011,652
Filed: December 11, 2001
Attorney Docket No. 101.0073-00000

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed by facsimile transmission on May 28, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US01/03657, filed February 5, 2001, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 11, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed PCT application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 365(c) to prior-filed PCT Application No. PCT/US01/03657.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAPER NO.

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

COPY MAILED

SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of Michelson Application No. 10/011,652 Filed: December 11, 2001 Attorney Docket No. 5-4	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This letter is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)(2), filed December 19, 2004. Applicant requests that the initial determination of patent term adjustment be corrected from one hundred two (102) days to one hundred ninety-nine (199) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is one hundred ninety-nine **(199)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 20, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 102 days. The instant request for reconsideration filed December 19, 2004 was timely filed prior to payment of the Issue Fee. See § 1.705(b). The request alleges that the examiner improperly determined a reply to be non-responsive, resulting in an error in calculation of applicant's patent term adjustment.

Applicant's argument has been considered and found persuasive. Under the facts and circumstances of this case, the reduction of 97 days associated with the filing of the response on December 29, 2003, is not warranted.

In view thereof, it is concluded that the correct initial determination of Patent Term Adjustment is ONE HUNDRED NINETY-NINE (199) days.

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

The Office of Patent Publication has been advised of this decision. The application is, thereby, 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.

Kery A. 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
www.uspto.gov

Paper No.

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE, OH 44632

COPY MAILED

JUN 0 8 2006

OFFICE OF PETITIONS

Patent No. 6,962,606	:	DECISION ON REQUEST FOR
Issue Date: November 8, 2005	:	RECONSIDERATION OF
Application No. 10/011,652	:	PATENT TERM ADJUSTMENT
Filed: December 11, 2001	:	and
Atty Docket No. 101.0073-00000	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d), filed January 9, 2006. Patentees request that the patent term adjustment for the above-identified patent be corrected to four hundred two (402) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred two (402) days.

On November 8, 2005, the above-identified application matured into U.S. Patent No. 6,962,606. The instant request for reconsideration filed Monday, January 9, 2006 was timely filed within 2 months of the date the patent issued. See § 1.705(d).

Patentees assert that the papers filed after the mailing of the notice of allowance and labelled "Affidavit(s)(Rule 131 or 132) or Exhibit(s) Received" with a date of receipt of December 19, 2004 were part of the Request under 37 C.F.R. § 1.705(b) filed December 19, 2004. As such, patentees maintain that, pursuant to 37 C.F.R. § 1.704(e), applicant was unfairly penalized with a loss of 120 days of patent term adjustment.

§ 1.704(e) provides that:

> Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

A review of the record confirms that the paper filed December 19, 2004 was such a paper. Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 120 days will be properly restored to patentees patent term adjustment.

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred two (402) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been received. 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 **four hundred two (402)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,962,606 B2

DATED : November 8, 2005

INVENTOR(S) : Michelson

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 (282) days

Delete the phrase "by 282" and insert – by 402 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JENKINS WILSON & TAYLOR PA
3100 TOWER BOULEVARD, SUITE 1200
DURHAM, NC 27707

COPY MAILED

JAN 2 7 2006

OFFICE OF PETITIONS

In re Application of	:
Tracy J. McNeely et al	:
Application No. 10/011,673	: DECISION GRANTING PETITION
Filed: October 29, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1322/59/2	:

This is a decision on the petition, filed January 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 25, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2133 for processing of the request for continued examination under 37 CFR 1.114 filed January 26, 2006 and for appropriate action on the amendment submitted January 24, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William S. Lightbody
Suite 100
32600 Fairmount Boulevard
Pepper Pike, OH 44124

COPY MAILED

NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Hollis N. White	:	
Application No. 10/011,675	:	ON PETITION
Filed: December 3, 2001	:	
Attorney Docket No. 7561-DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2004, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies slightly from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

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

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

DYKEMA GOSSETT, PLLC
SUITE 300 WEST
1300 I STREET, N.W.
WASHINGTON DC 20005-3306

COPY MAILED

SEP 17 2002

OFFICE OF PETITIONS

In re Application of	:
Freeman Wilks	:
Application No. 10/011,715	: DECISION GRANTING PETITION
Filed: 11 December, 2001	:
Att'y Docket No. 66768-002	:

This is a decision on the petition filed on 4 March, 2002, which is treated as a petition requesting that the above-identified application be accorded a filing date of 11 December, 2001, with two (2) sheets of drawings as a part of the original disclosure.

On 11 December, 2001, the application was filed.

On 9 January, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings. On 24 January, 2002, petitioners filed two (2) sheets of drawings. Accordingly, the application was accorded a filing date of 24 January, 2002.

In response, on 4 March, 2002, the present petition and an additional copy of the two (2) sheets of drawings were filed. Petitioners argues that two (2) sheets of drawings were filed with the other application papers on 11 December, 2001, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support, two copies of petitioner's postcard receipt were supplied with the present petition. Both copies of the postcard receipt shown an Office date stamp of 11 December, 2001, one with the above-identified application number. Both copies of the postcard receipt identify the application by inventor's name, attorney docket number, and invention title and

acknowledge receipt of, *inter alia*, two (2) sheets of drawings. Petitioner requests that the application, including two (2) sheets of drawings, be accorded a filing date of 11 December, 2001.

Upon review of the record, no sheets of drawings deposited on 11 December, 2001, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 11 December, 2001, included two (2) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including two (2) sheets of drawings, was complete on filing and entitled to a filing date of 11 December, 2001.

In view of the above, the petition is granted. The application will be reprocessed with a filing date of 11 December, 2001, using the application papers filed on 11 December, 2001, and the two (2) sheets of drawings filed on 24 January, 2002. The additional copy of the drawings supplied with the present petition will not be used for processing or examination, but will be retained in the application file. No petition fee has been charged and none is due.

The "Notice" mailed on 9 January, 2002, was sent in error and is hereby withdrawn.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of **11 December, 2001**, using the application papers filed on that date, and the two (2) sheets of drawings supplied on 24 January, 2002.

Telephone inquiries specific to this matter 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES C. WRAY
SUITE 300
1493 CHAIN BRIDGE ROAD
McLEAN, VA 22101

COPY MAILED

MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Kiril A. Pandelisev	:	
Application No. 10/011,718	:	
Filed: December 11, 2001	:	
Attorney Docket No. SCT	:	

This is a decision on the petition under 37 CFR 1.173(b), filed March 18, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed July 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 7, 2004.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER
3000 K ST NW
SUITE 500
WASHINGTON DC 20007

COPY MAILED

SEP 01 2005

OFFICE OF PETITIONS

In re Application	:
Recko, Jr., et al.	:
Application No. 10/011,746	: DECISION ON APPLICATION
Filed: December 11, 2001	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. 086554-0776	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b)," filed February 3, 2005. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to eighty-six (86) days.

For the reasons set forth below, a decision on the request for reconsideration of the patent term adjustment indicated on the patent is being **HELD IN ABEYANCE** until after the actual patent date.

Applicants are given two months from the issue date of the patent to request reconsideration of the patent term adjustment indicated on the patent application. Applicants may seek such reconsideration without payment of the fee. A copy of this decision should accompany applicant's written request for reconsideration.

On November 3, 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 zero (0) days. On February 3, 2005, applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA is eighty-six (86) days.

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 zero (0) days based on an adjustment for PTO delay of thirty (30) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delays of thirty-one (31), nine (9), and thirty-one (31) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay of one hundred twenty-seven (127) 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]

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.

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

---

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

[2] 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 16 2004

Douglas J. Sorocco
DUNLAP, CODDING & ROGERS, P.C.
Post Office Box 16370
Oklahoma city, Oklahoma 73113

In re Application of	:	
Paul Weigel et al	:	
Serial No. 10/011,768	:	DECISION ON PETITION
Filing Date: December 11, 2001	:	
Attorney Docket No.: 35541.064	:	

This is in response to applicant's "Petition to Make Special for New Application under MPEP 708.02, VIII" filed July 11, 2003. The delay is regretted.

A review of the petition shows that requirements of MPEP 708.02 have been met. Accordingly, the petition is granted. Prosecution will proceed according to the procedure set forth under MPEP 708.02 VIII. There is no provision for "withdrawal" from this special status.

Petition Granted.

Cecilia Tsang for
Bruce Kisliuk
Director, TC1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/5/07

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 6991921

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER
SPE

1656
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

DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of :
Weigel, et al. :
Application No. 10/011,768 : NOTICE
Filed: December 11, 2001 :
Attorney Docket No. 35541.064 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed June 17, 2009.

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

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

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

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. 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: KATHRYN L. HESTER, PH.D.
DUNLAP CODDING, P.C.
1601 NW EXPRESSWAY, SUITE 1000
OKLAHOMA CITY OK 73118

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 16 2004

Douglas J. Sorocco
DUNLAP, CODDING & ROGERS, P.C.
Post Office Box 16370
Oklahoma city, Oklahoma 73113

In re Application of	:	
Paul Weigel et al	:	
Serial No. 10/011,771	:	DECISION ON PETITION
Filing Date: December 11, 2001	:	
Attorney Docket No.: 35541.063	:	

This is in response to applicant's "Petition to Make Special for New Application under MPEP 708.02, VIII" filed July 11, 2003. The delay is regretted.

A review of the petition shows that requirements of MPEP 708.02 have been met. Accordingly, the petition is granted. Prosecution will proceed according to the procedure set forth under MPEP 708.02 VIII. There is no provision for "withdrawal" from this special status.

Petition Granted.

Carla Tsang for
Bruce Kisliuk
Director, TC1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/22/04

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction on Patent No.: 6,728,658

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Thank You For Your Assistance

A Green
Certificates of Correction Branch

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:

ELISEO RAMOS-FELICIANO
SUPERVISORY PATENT EXAMINER
SPE

2857
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

COPY MAILED

JUN 1 8 2002

OFFICE OF PETITIONS

In re Application of Wallace Martin Application No. 10/011,788 Filed: December 7, 2001 For: Device for Cleaning a Cautery Tip of an Electrosurgical Unit	DECISION GRANTING REQUEST FOR WITHDRAWAL OF APPLICATION PUBLICATION PURSUANT TO 35 U.S.C. § 122(b)

This is a decision on the request made by the applicant on May 10, 2002, requesting, in effect, that the above-identified application be treated as an application that has **not** been published pursuant to 35 U.S.C. § 122(b).

The request is **granted** to the extent indicated below:

(1) The USPTO will withdraw the patent application publication for the above-identified application from its internal and external search databases for patent application publications;

(2) The USPTO's Patent Application Location and Monitoring (PALM) and Patent Application Information Retrieval (PAIR) Systems will be modified to indicate that copies of and access to the above-identified application are **not** to be provided pursuant to 37 CFR 1.14(c)(2) and 1.14(e)(2);

(3) The publication number will be added to a list of withdrawn publications on the USPTO web site; and

(4) The USPTO will notify external database providers and its patent data exchange partners which are intellectual property offices of the withdrawal.

The above-identified application is eligible for publication under 35 U.S.C. 122(b). The project publication date of this application is June 12, 2003.

The application will be forwarded to Technology Center 1700 for examination in due course. Telephone inquiries specific to this matter should be directed to Joni Chang at (703) 308-3858.

Robert W. Bahr
Senior Patent Attorney
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

WK

Mailed: 2-14-06

In re application of	:	
Takemori Takayama et al.	:	DECISION ON
Serial No. 10/011,815	:	PETITION
Filed: December 11, 2001	:	
For: Contact Material Composite	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed January 6, 2006, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the miscellaneous incoming letter filed July 13, 2005 be expunged and that the documents be appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/011,815

The image of the document will be removed from the Official file.

Jacqueline M. Stone

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

Ronald P. Kananen
Rader, Fishman & Grauer PLLC
1233 20th Street, N.W.
Suite 501
Washington, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 28 2004

In re Application of	:	
Wei Jia, et al.	:	
Serial Number : 10/011,827	:	WITHDRAWAL
Filed : December 04, 2001	:	FROM
For : MICRONUTRIENT COMPOSITIONS	:	ISSUE
INCLUDING AMINOPHOSPHONIC	:	
ACID AND CHELATED METAL IONS	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefore will be communicated to you by the examiner.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee to 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.

Jacqueline M. Stone

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

Wei Jia
18886 Sydney Circle
Castro Valley, CA 94546

cc:Allowed Files, Pk3-915

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 2 5 2006

OFFICE OF PETITIONS

In re Application of

Debendra Das Sharma

Application No. 10/011,857

Filed: November 5, 2001

Attorney Docket No. 10017812-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed July 28, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

A review of the application file history reveals that an appeal brief was filed on January 26, 2006, and that, thereafter, an examiner's answer was filed on March 24, 2006. Pursuant to 37 CFR 41.41(a)(1), the petitioner was allowed a non-extendable period of two months to reply to the examiner's answer. The record reflects that on May 30, 2006, (certificate of mailing dated May 24, 2006, petitioner filed a reply to the examiner's answer which the undersigned located in the Image File Wrapper for the subject application. On July 18, 2006, the examiner mailed a notice stating that the reply brief filed May 30, 2006, was received, but would not be entered because it was not filed within the non-extendable period set for reply by 37 CFR 41.41(a)(1).

It is noted that 37 CFR 41.41(a)(1) allows anon-extendable two-month period for reply to an examiner's answer. While the petitioner's reply to the examiner's answer is accorded an official filing date of May 30, 2006, it is noted that the reply contained a certificate of mailing dated May 24, 2006—within the two month period for reply. It is further noted that 37 CFR 1.8 does not indicate that a reply to an examiner's answer should not receive the benefit of the certificate of mailing procedures. There is no indication that the circumstances presented by the application place it among the excepted filings as prescribed by 37 CFR 1.8(a)(2). Accordingly, it is concluded that the reply to the examiner's answer filed on May 30, 2006, should receive the benefit of the certificate of mailing dated May 24, 2006. Any resulting holding of abandonment should be withdrawn and the reply to the examiner's answer that was previously filed should be entered and noted as timely received.

The application file is being forwarded to Technology Center 2100, GAU 2111 for further processing.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,857	11/05/2001	Debendra Das Sharma	10017812 - 1	5264

22879 7590 09/21/2009
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
DANG, KHANH

ART UNIT	PAPER NUMBER
2111	

NOTIFICATION DATE	DELIVERY MODE
09/21/2009	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):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusek@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
Fort Collins, CO 80528

In re Application of: Debendra Das SHARMA
Application No. 10/011,857
Attorney Docket No. 10017812-1
Filed: November 05, 2001
For: METHOD AND SYSTEM FOR CONTROLLING FLOW OF ORDERED, PIPELINED TRANSACTIONS BETWEEN INTERCOMMUNICATING ELECTRONIC DEVICES

SUA SPONTE
WITHDRAWAL OF HOLDING OF ABANDONMENT

A review of the application reveals that a Notice of Abandonment was mailed to the applicant on September 16, 2009. The notice incorrectly indicated that the instant application was being held abandoned "in response to the decision by the Board of Appeals and Interferences (the Board) rendered on June 02, 2009 and because the period for seeking court review of the decision has expired ***and there are no allowed claims***". Reference to the Decision on Appeal (page 20 thereof), mailed June 02, 2009, reveals that the Examiner's rejection of pending dependent claims 2, 3 and 16-20 was in fact reversed by the Board.

In accordance with M.P.E.P. § 1214.06(I)(B), the examiner has the following options:

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, ** after expiration of the period for further appeal, >the examiner< should proceed in one of two ways:
(1) *Convert the dependent claim into independent form* by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or
(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

In view of these facts, the abandonment of the application was clearly in error and is hereby **VACATED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment, restore the instant application to pending status. The application will then be forwarded to the Examiner of record for prompt action on the merits, in accordance with this decision. Note, the amendment filed August 3, 2009 is procedural incorrect (see § 1214.06(I)(B)(1) above) and has not been entered.

Inquiries to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist, Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 0 5 2002
PATENT & TRADEMARK OFFICE

Paper No. 3

NOV 2 6 2001

ZENITH ELECTRONICS CORPORATION
2000 MILLBROOK DRIVE
LINCOLNSHIRE, IL 60069

COPY MAILED
NOV 1 9 2001
OFFICE OF PETITIONS

In re Application of
Fimoff et al.
Application No. 60/324,096
Filed: September 22, 2001
Attorney Docket No. 7204

RECEIVED
OCT 3 1 2002
Technology Center 2100

ON PETITION

This is a decision on the petition filed October 15, 2001 (Certificate of Mailing Date of September 11, 2001), to accord the above-identified application a filing date of September 20, 2001, instead of September September 24, 2001.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Paragraph (b) of 37 CFR 1.10 provides,

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Since an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Since petitioner has not supplied a showing in compliance with 37 CFR 1.10(c) or 37 CFR 1.10(d), the petition is **dismissed in part**.

A review of an USPS database (copy attached) indicates that the package was in the possession of the USPS on September 22, 2001. Therefore, the petition is **granted in part**. The application will be accorded a filing date of September 22, 2001, rather than September 24, 2001.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** 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: 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

If a request for reconsideration is not filed within two months, the file will be forwarded to the Office of Initial Patent Examination to accord the application a filing date of September 22, 2001.

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

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

Attached: Copy of printout from USPS database showing that USPS had possession of the package on September 22, 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN R. KIPNES, ESQ.
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION NJ 08550

COPY MAILED

JAN 3 1 2006

OFFICE OF PETITIONS

In re Application of :
Miles Van Niekerk et al. :
Application No. 10/011,904 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No. 5924-P2-LAV :

This is a decision on the petition filed January 11, 2006, under 37 CFR 1.137(a)[1] and alternatively under 37 CFR 1.137(b)[2], to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

This application became abandoned May 19, 2005 for failure to file a proper and timely

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 CFR 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137©)).

[2]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)).

response to the non-Final Office Action mailed February 18, 2005. Accordingly, a Notice of Abandonment was mailed September 1, 2005.

Petitioner argues that a revocation and power of attorney as well as an address change was filed July 30, 2004. Petitioner further argues that they resubmitted the address change again on April 5, 2005 but that the non-Final Office Action mailed February 18, 2005 was mailed to the old address and thus was not received by the attorney of record at the address of record. Petitioner has submitted a response to the non-Final Office Action with the instant petition to revive and claims therefore that the delay in responding to the non-Final Office Action was unavoidable or in the alternative, unintentional.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

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 or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

Petitioner has not presented any proof that such revocations, powers of attorney and change of address was filed prior to the mailing of the non-Final Office Action however,

---

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

a review of the file reveals that the petitioner is correct, that a revocation and power of attorney was in fact filed with a certificate of mail on July 30, 2004 (received August 3, 2004) and that a change of correspondence address was resubmitted with a certificate of mail on April 5, 2005 (received April 8, 2005), all prior to the mailing of the non-Final Office Action. It is noted therefore that an error on the part of the USPTO caused the office action mailed February 18, 2005 to not be received by the petitioner. Thus, petitioner's delay in responding to the non-Final Office Action was unavoidable under the standard set out at 37 CFR 1.137(a).

In view thereof, petitioner's deposit account no. 23-0510 will be charged in the amount of $500 for the petition under 37 CFR 1.137(a). It will not be necessary to treat this petition alternatively under 37 CFR 1.137(b), the unintentional standard.

This matter is being referred to Technology Center 1761 for appropriate action on the amendment filed January 11, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALLEN R. KIPNES, ESQ.
WATOV & KIPNES, P.C.
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

COPY MAILED
NOV 24 2008

In re Application of	:	
NIEKERK, et al.	:	
Application No. 10/011,904	:	DECISION ON PETITION
Filed: December 4, 2001	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. **WLCO 0155 PUS**	:	

This is a decision on the petition under 37 CFR 1.313(a), filed November 14, 2008, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed on November 14, 2008.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

If the IDS is not favorably considered by the examiner, petitioner may wish to file a petition under 37 CFR 1.313(c)(2).

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

This matter is being referred to Technology Center AU 1794 for appropriate action on the IDS filed November 14, 2008.

Monica A. Graves
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

Allen R. Kipnes, Esq.
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction NJ 08550

COPY MAILED

FEB 2 7 2009

OFFICE OF PETITIONS

In re Application of :
Miles Van Niekerk, et al. :
Application No. 10/011,904 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No. WLCO 0155 PUS :
For: HIGH SPEED COATING OF
CHEWING GUM CORES

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2009 (certificate of mailing date January 30, 2009), to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee and publication fee in response to the Notice of Allowance and Fee(s) Due, mailed August 11, 2008, which set a non-extendable three month period for reply. The application became abandoned on November 12, 2008. A Notice of Abandonment was mailed on December 18, 2008.

Applicants have submitted a $1,440.00 partial issue fee payment, the $300.00 publication fee, a RCE (with $810.00 fee) and IDS as the submission in reply to the August 11, 2008 Notice of Allowance and Fee(s) Due, an acceptable statement of the unintentional nature of the delay in responding to the August 11, 2008 Notice of Allowance and Fee(s) Due , and the $1,620.00 petition fee.

With respect to the issue fee due: The issue fee was paid on certificate of mailing date January 30, 2009. On January 30, 2009, the large entity issue fee due was $1,510.00. Petitioners paid only $1,440.00. Pursuant to petitioner's authorization, deposit account no. 23-0510 will be charged the $70.00 balance due.

The petition is **GRANTED**.

Petitioners request that the issue fee be refunded. Petitioner is reminded that in an application abandoned for failure to pay the issue fee, the required reply **must** include payment of the issue fee. MPEP 711.03(c). 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee.

Therefore, the RCE and IDS alone is not an acceptable reply. Please keep in mind that the required issue fee payment may be reapplied to any future issue fee due, if petitioners request it.

After the mailing of this decision the application will be forwarded to Technology Center AU 1794 for consideration of the RCE and IDS filed on February 2, 2009 (certificate of mailing date January 30, 2009).

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID M. CROMPTON
CROMPTON, SEAGER & TUFTE
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:
Erlinger et al	: DECISION ON PETITION
Application No. 10/011,941	: UNDER 37 CFR 1.78(a)(3)
Filed: November 5, 2001	:
Attorney Docket No. 032580.0059.CIP1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

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

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

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 September 24, 2004, fails to state the relationship of the prior-filed applications to the instant application.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed applications to the instant application is required.

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

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

By hand: Customer Window located at:

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

By fax: (703) 872-9306
ATTN: Office of Petitions

---

[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

COPY MAILED
AUG 17 2004
OFFICE OF PETITIONS

In re Application of
Gust H. Bardy et al
Application No. 10/011,947
Filed: November 5, 2001
Attorney Docket No. 032580.0058.CIP

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in an amendment embodied in the instant petition. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement for Application No. 09/940,273, filed August 27, 2001, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

---

[1] *Note* 37 CFR 1.121

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

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

By hand: Customer Window located at:

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 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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

JAN 1 1 2005

OFFICE OF PETITIONS

In re Application of
Gust H. Bardy et al
Application No. 10/011,947
Filed: November 5, 2001
Attorney Docket No. 032580.0058.CIP

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the paper filed September 23, 2004, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed July 29, 2004.

The petition is **GRANTED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on November 5, 2001. 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 the undersigned at (571) 272-3208.

The examiner of Technology Center Art Unit 3762 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/940,273, filed August 27, 2001.

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

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE, SUITE 800
MINNEAPOLIS, MN 55403-2420

COPY MAILED

APR 17 2007

OFFICE OF PETITIONS

In re Patent No. 7,120,495
Issue Date: October 10, 2006
Application No. 10/011,956
Filed: November 5, 2001
Attorney Docket No. 1201.1132101

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed September 24, 2004, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/940,599, filed August 27, 2001, by way of a certificate of correction since this case issued prior to the rendering of a decision on this petition.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed November 5, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/011,956	11/05/2001	3766	1171	1201.1132101	59	4

CONFIRMATION NO. 7947

CORRECTED FILING RECEIPT

OC000000023361777

21691
CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 04/12/2007

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

Applicant(s)

Gust H. Bardy, Seattle, WA;
Riccardo Cappato, Ferrara, ITALY;
William J. Rissmann, Coto de Caza, CA;
Alan H. Ostroff, San Clemente, CA;
Paul J. Erlinger, San Clemente, CA;

Assignment For Published Patent Application

Cameron Health, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **28075**.

Domestic Priority data as claimed by applicant

This application is a CIP of 09/940,599 08/27/2001 PAT 6,950,705
which is a CIP of 09/663,607 09/18/2000 PAT 6,721,597
and is a CIP of 09/663,606 09/18/2000 PAT 6,647,292

Foreign Applications

If Required, Foreign Filing License Granted: 01/26/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/011,956

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

FLEXIBLE SUBCUTANEOUS IMPLANTABLE CARDIOVERTER-DEFIBRILLATOR

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES 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 and POPEO, P.C
One Financial Center
Boston MA 02111

COPY MAILED
MAY 11 2005
OFFICE OF PETITIONS

Applicant: Vladoianu et al.
Appl. No.: 10/011,960
Filing Date: November 5, 2001
Title: LIVE ATTENUATED SALMONELLA STRAINS FOR PRODUCING MONOVALENT OR MULTIVALENT VACCINES
Attorney Docket No.: 23606-501
Pub. No.: US 2003/0068328 A1
Pub. Date: April 10, 2003

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on June 10, 2003 and a copy of the request received June 25, 2004, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application republishes. The corrected patent application publication will not include the amendments to the specification submitted with this request.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 14 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

LYON & HARR, LLP
300 ESPLANADE DRIVE, SUITE 800
OXNARD CA 93036

In re Application of	:
SCHOELKOPF, BERNHARD, et al	: DECISION ON PETITION
Serial No.: **10/012,001**	: *ACCEPTANCE OF COLOR PHOTOGRAPHS*
Filed: November 30, 2001	:
For: **INTERACTIVE IMAGES**	:

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, November 30, 2001, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 5(a), 5(b), 5(c), 7(a), 7(b), 7(c), 7(d) 8, 9, 11(a), 11(b), 11(c), 11(d), 12(a), 12(b), 13, 14, 15, 16, 18, 19(a), 19(b) and 20, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED**.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BORDEN LADNER GERVAIS LLP
1100-100 QUEEN ST
OTTAWA ON K1P 1J9 CA CANADA

COPY MAILED

MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Schulhoff, et al. : DECISION ON PETITION
Application No. 10/012,003 :
Filed: October 29, 2001 :
For: CLEANING/DISINFECTANT :
COMPOSITION TO CLEAN SURFACES :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 29, 2004 for failure to timely reply to the non-final Office action mailed January 28, 2004. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed August 5, 2004.

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.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or

direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application will be forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 18 2004

Michelle E. O'Brien
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
1300 I Street, NW
Washington, D.C. 20005-3315

In re Application of	:	
Nathalie COLLINS	:	
Serial No. 10/012,051	:	DECISION ON PETITION
Filing Date: December 11, 2001	:	
Attorney Docket No.: 5725.1004-00	:	

This is in response to applicant's "Petition to Make Special under 37 CFR 1.102(d) and MPEP 708.02, (II)" filed February 27, 2004.

A review of the petition shows that requirements of MPEP 708.02 have been met. Accordingly, the petition is granted. There is no provision for "withdrawal" from this special status.

Petition Granted.

Should there be any questions with regard to this letter please contact Cecilia Tsang by letter addressed to the Director, technology center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0562 or by facsimile transmission to the Office general facsimile number.

Cecilia Tsang
Special Program Examiner, TC1600

UNITED STATES 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

SAMUEL H. DWORETSKY
AT&T CORP.
P.O. BOX 4110
MIDDLETOWN, NJ 07748-4110

COPY MAILED

DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of
Pearson et al.
Application No. 10/012,113
Filed: December 3, 2001
Attorney Docket No. 2000-0191

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 5, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed March 12, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 13, 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 2600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017

COPY MAILED
JAN 20 2004
OFFICE OF PETITIONS

In re Application of
Abraham Hochberg, et al.
Application No. 10/012,131
Filed: October 22, 2001
Attorney Docket No. 9457-039

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed December 9, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The 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. If appropriate, 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 petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 22, 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 April 29, 2004 accompanies this decision on petition.

There is no indication that a reply to the Restriction Requirement of September 4, 2003 has been filed. Accordingly, a shortened statutory period of month (1) month for reply to the Restriction Requirement of September 4, 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.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Technology center Art Unit 1635 to await a reply to the Restriction Requirement mailed September 4, 2003.

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

cc:

GERALDINE F. BALDWIN
PENNIE & EDMONDS, LLP
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2711

UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 15 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. 7,038,019 DESNOYERS et al Issue Date: May 2, 2006 Appl No.: 10/012,149 Filed: December 7, 2001 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 26, 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: October 1, 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. 7,038,019 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,038,019
Patented: May 2, 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
Colin 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 11

SAMUELS, GAUTHIER & STEVENS LLP
SUITE 3300
225 FRANKLIN STREET
BOSTON MA 02110

COPY MAILED
MAR 17 2006
OFFICE OF PETITIONS

In re Application of :
Michael Becker et al. : ON PETITION
Application No. 10/012,200 :
Filed: November 13, 2001 :
Attorney Docket No. Westphal.6469 :

This is a decision on the petition filed March 6, 2006, to withdraw the holding of abandonment of the above-identified application under 37 CFR 1.181.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

The above-referenced application was held abandoned on December 12, 2003 for failure to file a proper reply to a Final Office Action mailed September 11, 2003 in compliance with 37 CFR 1.113. Accordingly, a Notice of Abandonment was mailed November 16, 2004.

A proposed response to the Final Office Action, a Notice of Appeal, was filed December 15, 2003 with a certificate of mail dated December 11, 2003, however it was not in the proper format. Amongst other requirements, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The Notice of Appeal filed December 11, 2003 did not identify the rejected claim or claims appealed, it simply stated that "Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the Examiner".

In view thereof and since a proper response was not timely filed, the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

Petitioner may wish to filed a petition to revive under 37 CFR 1.137(a) or (b). Section

1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

(2) the petition fee as set forth in 37 CFR 1.17(m) ($675.00);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

O'SHEA, GETZ & KOSAKOWSKI, P.C.
1500 MAIN ST.
SUITE 912
SPRINGFIELD, MA 01115

UNITED STATES 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 13

PATRICK J. O'SHEA
O'SHEA, GETZ & KOSAKOWSKI, P.C.
1500 MAIN STREET
SUITE 912
SPRINGFIELD MA 01115

COPY MAILED

APR 2 4 2006

OFFICE OF PETITIONS

In re Application of :
Michael Becker et al. : ON PETITION
Application No. 10/012,200 :
Filed: November 13, 2001 :
Attorney Docket No. Westphal.6469 :

This is a decision on the petition filed March 22, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-referenced application was held abandoned on December 12, 2003 for failure to file a proper reply to a Final Office Action mailed September 11, 2003 in compliance with 37 CFR 1.113. Accordingly, a Notice of Abandonment was mailed November 16, 2004. A proposed response to the Final Office Action, a Notice of Appeal, was filed December 15, 2003 with a certificate of mail dated December 11, 2003, however it was not in the proper format.

Comes now petitioners with the instant petition to revive, a Corrected Notice of Appeal and an Appeal Brief.

The Corrected Notice of Appeal filed March 22, 2006, has been entered and made of record. Although petitioners have submitted the Appeal Brief, the agency is obligated to inform petitioners that they have a two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, and that the two (2)-month period runs from the date of this decision.

The matter is being referred to Technology Center 2636 for a review of the Corrected Notice of Appeal and the Appeal Brief.

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

Patricia Faison-Ball

Patricia Faison-Ball
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
P.O. Box 1450
Alexandrai, VA. 22313-1450
WWW.USPTO.GOV

SEP 23 2004

Rivka D. Monheit
PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361

Date: September 09, 2004
Application No. 10/012,202
Filed: December 05, 2001
Subject: **COMPOSITION CONTAINING BOTH SEDATIVE AND NON-SEDATIVE ANTIHISTAMINES**

ON PETITION
37 CFR 1.48(a), (b)

Receipt is acknowledged of the petitions filed August 31, 2004, under 37 CFR 1.48(a), & (b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the Inventorship, and accordingly, this application has been changed by the **ADDITION of JANE HIRSH AND WHE-YONG LO**. The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

THURMAN K. PAGE, M.A., J.D.
SUPERVISORY PATENT EXAMINER

THURMAN K. PAGE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1615
Remsen 4A81
571-272-0602

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 7/16/08

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/012202 Patent No: 6827946 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Request for Correction is denied because, if entered, Claim 7 would be identical to claim 18. (i.e., claim 7 would read exactly the same as claim 18). Thus, request for correction is denied, as claim 7 would be a duplicate of claim 18.

[signature] 1618
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

~~August 28, 2008~~
November 6, 2008

Charles Vorndran
Pabst Patent Group, LLP
1201 Peachtree Street, Suite 1200
Atlanta, GA 30361

Patent No: 6,827,946 B2
Application No: 10/012,202
Applicant: Mark Hish, et al.
Issued: December 7, 2004
Title: **COMPOSITIONS CONTAINING BOTH SEDATIVE AND NON-SEDATIVE ANTIHISTAMINES**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the application for the patent reveals that column 12, line 4, in the patent is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner.

Per the examiner "*Request for correction is denied because if entered, claim 7 would be identical to claim 18*".

In view of the foregoing your request in this matter is hereby **denied**.

Virginia Tolbert
For Mary F. Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : APRIL 10, 2007

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10012203 Patent No.: 7167600B22

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: _____

_____

_____

_____

_____

Mark C. Zele — **SPE**

2624 — **Art Unit**

PTO/SB/ 44 (10-96)
Approved for use through 6/30/99. 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 : 7,167,600

DATED : January 23, 2007

INVENTOR(S) : Hiroshi Yamamoto

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

Claim 25 column 11, line 58: "-processing program, such draw-" should be changed to "--processing program, said program execution device including a memory wherein the draw processing program is stored, such draw--".

Claim 33 column 12, line 50: "-computer comprising :-" should be changed to "--computer, said computer including a memory wherein the draw processing program is stored, said draw processing program comprising :--".

Claim 39 column 14, line 41: "-processing program, the draw-" should be changed to "--processing program, said program execution device including a memory wherein the draw processing program is stored, the draw--".

MAILING ADDRESS OF SENDER:

Katten Muchin Rosenman LLP
575 Madison Avenue
New York, New York 10022-2585

PATENT NO. 7,167,600

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

MAR 1 6 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

Paper No. 11

JUN 13 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of:
Mani et al.
Application No. 10/012,264
Filed: November 5, 2001
For: METHOD AND APPARATUS FOR MULTIPLEXING IN A WIRELESS COMMUNICATION INFRASTRUCTURE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 22, 2003 under 37 CFR § 1.102(d) to make the application special.

A grantable petition under 37 CFR § 1.102(d) and MPEP § 708.02, section II: Infringement, must be accompanied by the required fee and a statement alleging:

- (1) that there is an infringing device or product actually on the market or method in use;
- (2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all of the above requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

JUL 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of
SANJAY MANI
Application No. 10/012264
Filed: November 5, 2001
For: METHOD AND APPARATUS FOR MULTIPLEXING IN A WIRELESS COMMUNICATION INFRASTRUCTURE

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on June 17, 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.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

cc: BURT MAGEN
VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET
SUITE 540
SAN FRANCISCO CA 94105-4156

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

SEP 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Leonard A. Smith :
Application No. 10/012,269 : ON PETITION
Filed: November 6, 2001 :
Attorney Docket No. A33778 067252.0106 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 23, 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)). Since the amendment submitted on February 18, 2005 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed July 21, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on March 24, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 December 23, 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 1645.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Kenneth M. Fallon, et al.	:	
Application No. 10/012,276	:	ON PETITION
Filed: November 29, 2001	:	
Attorney Docket No. 83498CEB	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

WAGNER, MURABITO & HAO, L.L.P.
Two North Market Street
Third Floor
San Jose, CA 95113

COPY MAILED

APR 0 7 2003

OFFICE OF PETITIONS

In re Application of
Ramachandramurthy et al.
Application No. 10/012,291
Filed: November 12, 2001
Attorney Docket No. CHRT-00265

ON PETITION

This is a decision on the petition filed March 17, 2003, to accord the above-identified application a filing date of November 12, 2001, instead of November 13, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 12, 2001.

A petition under 1.10 does not require a petition fee. Therefore, the $130.00 submitted with the petition is unnecessary and will be refunded.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 12, 2001.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

APR 06 2009

OFFICE OF PETITIONS

In re Patent No. 6,836,715 :
Issued: December 28, 2004 :
Application No. 10/012,301 : ON PETITION
Filed: December 12, 2001 :
Attorney Docket Number: 033192-008 :

This is a decision on the petition, filed March 25, 2009, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the name of a second assignee, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the second assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

A request for a certification of correction was filed May 26, 2005 and was dismissed in a decision mailed June 21, 2005 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

---

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

Office assignment records reflect that TOYOTA JIDOSHA KABUSHIKI KAISHA is also an assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The petition fee and the fee for the certificate of correction have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

APR 0 5 2005

OFFICE OF PETITIONS

In re Application of	:
Dahl et al.	:
Application No. 10/012,335	: DECISION ON PETITION
Filed: December 12, 2001	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 005950-757	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1370.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 02-4800.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Paralegal Liana Chas at (571) 272-3206.

Frances Hicks

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

---

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Dahl et al.	:	
Application No. 10/012,335	:	DECISION GRANTING PETITION
Filed: December 12, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 005950-757	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed April 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications 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 applications 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 applications, Application Nos. 60/337,918, and 60/334,943, filed November 9, 2001, and December 4, 2001, respectively, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional 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)(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 applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed 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. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (571) 272-3206. 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 AU 1764 for appropriate action on the amendment submitted April 19, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

APR 18 2005
Mailed:_____

rvk
Paper Number: ____

In re application of
Jeremey E. Dahl et al
Serial No. 10/012,337
Filed: December 12 , 2001
For: COMPOSITIONS COMPRISING DECAMANTANES AND PROCESSES FOR THEIR SEPARATION

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. 1.137(a) TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION, filed November 15, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of September 10, 2004, for failure to timely file a proper response to the Office letter dated February 20, 2004 be withdrawn. The petitioner asserts that the Office letter of February 20, 2004 was not received by applicants.

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)(II).

The evidence presented is sufficient to establish that the Office letter of February 20, 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of February 20, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of February 20, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter of February 20, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The instant petition was accompanied by $110.00 as a petition fee. However, a petition of this type does not require a $110.00 petition fee. Therefore, a refund of the $110.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

GERALD F. SWISS
BURNS, DOANE, SWECKER & MATHIS,L.L.P.
P.O.BOX 1404
ALEXANDRIA, VA 22313-1404

8

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

COPY MAILED

SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of
Shrikant Deshpande, Subha Arimilli, and Kaldip Choudhury
Application No. 10/012,363
Filed: December 12, 2001
Attorney Docket No. 014058-011610US
Title: HLA-DR2 BINDING PEPTIDES

DECISION AFFORDING 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 June 27[2], 2002.

The petition under 37 C.F.R. §1.47(a) is **GRANTED**.

The above-identified application was filed on December 12, 2001, identifying Shrikant Deshpande, Subha Arimilli, and Kaldip Choudhury as joint inventors. On January 28, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63, a surcharge for its late filing, the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge associated with the late filing of an oath or declaration, and the basic filing fee. To make timely this reply, petitioner has included a petition for a three-month extension of time.

Accompanying the petition was a statement from the attorney of record, a declarations executed by each inventor save Choudhury, and copies of the cover letter sent to the three inventors.

---

[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.

[2] The petition contains a certificate of mailing dated June 18, 2002.

The copy of the cover letter included with the instant petition shows that a complete copy of the application, the assignment papers, and a blank declaration were sent to inventor Deshpande, with a carbon copy sent to the other two joint inventors.

On September 13, 2002, the assistant to the attorney of record faxed a statement of facts to the Office, indicating that two letters were sent to the non-signing inventor, along with a complete copy of the application, the assignment papers, and a blank 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(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for further processing.

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

E Shields 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

Kaldip Choudhury
42163 Rosewood Common
Fremont, CA 94538

COPY MAILED

SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of Shrikant Deshpande, Subha Arimilli, and Kaldip Choudhury Application No. 10/012,363 Filed: December 12, 2001 Attorney Docket No. 014058-011610US Title: HLA-DR2 BINDING PEPTIDES	: : : : : : :	DECISION AFFORDING STATUS UNDER 37 C.F.R. §1.47(a)

Dear Mr. Choudhury:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCARTHY TETRAULT LLP
66 WELLINGTON ST WEST
BOX 48 SUITE 4700
TORONTO ON M5K 1E6 CA
CANADA

COPY MAILED
JUL 1 8 2006
OFFICE OF PETITIONS

In re Application of		
Greidanus, et al.	:	
Application No. 10/012,427	:	DECISION ON
Filed: December 12, 2001	:	PETITION
Attorney Docket No. 123081-339627	:	

This is in response to the petition to withdraw the holding of abandonment, filed June 20, 2006.

The petition is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a proper reply to the final Office action mailed December 22, 2004. Applicants filed an RCE with an amendment on March 22, 2005. However, the Office mailed a Notice of Non-Compliant Amendment on April 1, 2005. The Notice stated that the period for reply would continue to run from the mailing date of the final Office action. No reply having been received, the above-identified application was held abandoned on March 23, 2005. A Notice of Abandonment was mailed on October 7, 2005.

Petitioner has supplied a copy of an Amendment, bearing a Certificate of Mailing under 37 CFR 1.8 dated April 14, 2005. In view of the above, the holding of abandonment is withdrawn.

However, a one month extension of time would have been necessary to make the April 14, 2005 Amendment timely. In view thereof, the $120 fee for a one month extension of time has been charged to Deposit Account No. 15-0633, as authorized in the Amendment.

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

The application file is being forwarded to Group Art Unit 2856 for consideration of the Amendment filed October 3, 2005 (Certificate of Mailing dated April 14, 2005), a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCCARTHY TETRAULT LLP
BOX 48 SUITE 4700
66 WELLINGTON STREET WEST
TORONTO ON M5K 1E6 CANADA

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

In re Application	:	
Greidanus, et al.	:	
Application No. 10/012,427	:	DECISION ON APPLICATION
Filed: December 12, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 53921/158	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b)", filed January 30, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be increased from the currently accorded one hundred sixty (160) days to three hundred fifty-four (354) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein. However, applicants' request that the patent term be increased due to the Office's failure to issue a patent within three years is being **HELD IN ABEYANCE** until after the actual patent date.[1]

---

[1] 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). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(a), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

The Office 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 thirty-two (232) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants 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 included payment of the required fee.

On October 30, 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 one hundred sixty (160) days. On January 30, 2007, Applicants timely[2] submitted the instant application for patent term adjustment.

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 one hundred sixty (160) days based on an adjustment of fifty-five (55) days of PTO delay pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and two hundred sixty-nine (269) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by applicants' delays of thirty-one (31), thirty-nine (39), and ninety-four (94) days, all pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustments of 269 and 94 days are at issue.

Applicants were wrongfully assessed applicant delay of ninety-four (94) days for responding to a April 1, 2005 Office action on October 3, 2005. Applicants showed in a petition to withdraw the holding of abandonment, filed June 20, 2006 and granted on July 18, 2006, that their reply was actually timely filed on April 14, 2005. Accordingly, zero (0) days of applicant delay should have been assessed with respect to this filing.

---

[2] Applicants filed the application for patent term adjustment prior to paying the issue fee.

Furthermore, as the Office did not mail a reply until a Notice of Allowance on October 30, 2006, four hundred forty-one (442) days of PTO delay should have been assessed, not two hundred sixty-nine (269) days.

However, a review of the application reveals that applicants should have been assessed delay under 37 CFR 1.704(c)(4), for not timely filing the petition to withdraw the holding of abandonment within two months. The Office mailed a Notice of Abandonment on October 7, 2005. Applicants did not file a petition to withdraw the holding of abandonment until June 20, 2006. Accordingly, pursuant to 37 CFR 1.704(c)(4), one hundred ninety-five (195) days should have been assessed, representing the number of days from December 8, 2005 to June 20, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred thirty-two (232) days** (496 (441+55) days of PTO delay, reduced by 265 (31+39+195) days of applicant delay).

The $200 fee set forth in 37 C.F.R. § 1.18(e) has been charged to Deposit Account No. 15-0633, as authorized.[3]

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: copy of revised PALM Screen

---

[3] See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000) (stating that the fee set forth in 37 C.F.R. 1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable even in the event of Office error).

Day : Thursday
Date: 9/13/2007

PALM INTRANET

Time: 19:21:37

PTA Calculations for Application: 10/012427			
Application Filing Date:	12/12/2001	PTO Delay (PTO):	324
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	164
Post-Issue Petitions:	0	Total PTA (days):	232
PTO Delay Adjustment:	72		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		195	
72	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		269	
71	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	442		
70	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	94		
60	10/30/2006	MAIL NOTICE OF ALLOWANCE	269		54
59	10/27/2006	ISSUE REVISION COMPLETED			
58	10/27/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	10/27/2006	NOTICE OF ALLOWABILITY			
56	10/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
55	08/02/2006	DATE FORWARDED TO EXAMINER			
54	10/03/2005	RESPONSE AFTER NON-FINAL ACTION		94	45
53	08/02/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
52	08/01/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
51	08/01/2006	CASE DOCKETED TO EXAMINER IN GAU			
50	07/18/2006	PETITION TO REVIVE APPLICATION - GRANTED			
49	06/20/2006	PETITION ENTERED			
48	10/07/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
47	10/06/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
45	04/01/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
44	03/30/2005	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
43	03/30/2005	DATE FORWARDED TO EXAMINER			

42	03/22/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
41	03/30/2005	DATE FORWARDED TO EXAMINER			
40	03/22/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
39	03/30/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	03/22/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
37	12/22/2004	MAIL FINAL REJECTION (PTOL - 326)			
36	12/21/2004	FINAL REJECTION			
35	12/06/2004	DATE FORWARDED TO EXAMINER			
34	11/25/2004	RESPONSE AFTER NON-FINAL ACTION			
33	12/06/2004	CORRESPONDENCE ADDRESS CHANGE			
32	11/25/2004	REFERENCE CAPTURE ON IDS			
31	11/25/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	08/25/2004	MAIL NON-FINAL REJECTION			
29	08/23/2004	NON-FINAL REJECTION			
28	07/30/2004	DATE FORWARDED TO EXAMINER			
27	07/19/2004	AMENDMENT AFTER FINAL REJECTION		39	18
26	07/19/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	07/19/2004	WORKFLOW INCOMING PETITION IFW			
24	07/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
23	06/02/2004	MAIL ADVISORY ACTION (PTOL - 303)			
22	06/01/2004	ADVISORY ACTION (PTOL-303)			
21	05/14/2004	DATE FORWARDED TO EXAMINER			
20	05/10/2004	AMENDMENT AFTER FINAL REJECTION			
19	05/10/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	03/10/2004	MAIL FINAL REJECTION (PTOL - 326)			
17	03/04/2004	FINAL REJECTION			
16	02/11/2004	IFW AMENDED CASE PROCESSING COMPLETE			
15	02/11/2004	DATE FORWARDED TO EXAMINER			
14	01/05/2004	RESPONSE AFTER NON-FINAL ACTION		31	12
13	01/05/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	09/05/2003	MAIL NON-FINAL REJECTION			
11	08/25/2003	NON-FINAL REJECTION			
10	05/13/2003	DATE FORWARDED TO EXAMINER			

9	05/08/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
8	04/08/2003	MAIL RESTRICTION REQUIREMENT	55		-1
7	04/07/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
6	09/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	08/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	01/10/2002	APPLICATION DISPATCHED FROM OIPE			
3	01/09/2002	APPLICATION IS NOW COMPLETE			
2	12/22/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/12/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES 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.

MCCARTHY TETRAULT LLP
BOX 48, SUITE 4700,
66WELLINGTON STREET WEST
TORONTO ON M5K 1E6
CANADA

COPY MAILED

SEP 2 5 2007

OFFICE OF PETITIONS

In re Patent No. 7,233,568	:	
Goodman et al.	:	DECISION ON APPLICATION
Issue Date: 19 June, 2007	:	FOR PATENT TERM ADJUSTMENT
Application No. 10/012,432	:	
Filed: 12 December, 2001	:	
Attorney Docket No.	:	
123081-339715 (TO1216-010	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(B)" filed on 19 July, 2007. Patentees request that the Patent Term Adjustment for the above-identified patent be set at 835 days.

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

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

On 19 June, 2007, the above-identified application matured into U.S. Patent No. 7,233,568. The instant request for reconsideration filed on 19 July, 2007, 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 761 days. This revised determination was calculated as follows: The initial determination of PTA of 854 days was reduced by 93 days for the filing of drawings with an amendment filed on 19 March, 2007, filed after the mailing of a notice of allowance on 28 February, 2007.

Patentees contend that that the reduction in patent term adjustment for the filing of the amendment after the mailing of the notice of allowance should be 19 days, the number of days between the mailing of the notice of allowance and the filing of the amendment after the mailing of the notice of allowance.

Patentees' contention is not well taken.

37 CFR 1.704 states, in pertinent part:

> (c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> ...
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; and
>
> ...

Accordingly, applicant delay is calculated as the lesser of the number of days between the date the amendment under 37 CFR 1.312 is filed and the date the Office mails a communication in response to the amendment under 37 CFR 1.312, or four (4) months.

A review of the record reveals that the patent issued on 19 June, 2007. As such, the period of delay is calculated as the

number of days between the date the drawings filed on 19 March, 2007, were filed, and 19 June, 2007, the date the patent issued. As such, the period of applicant delay was correctly calculated as 93 days.

In view thereof, the patent term adjustment was correctly indicated on the patent as issued.

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

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVENUE S.
XEROX SQUARE 20TH FLOOR
ROCHESTER, NY 14644

COPY MAILED

AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of	:
Hammond et al.	:
Application No. 10/012,439	: DECISION GRANTING PETITION
Filed: December 12, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. D/A0A58	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 1, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/953,526 filed September 17, 2001, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 12, 2001, and was pending at the time of filing of the instant petition. A reference to the above-noted prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the 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 applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

This matter is being referred to Technology Center Art Unit 1762 for appropriate action on the amendment filed June 1, 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 application.

Frances Hicks

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

cc: RICHARD M. KLEIN
FAY SHARPE FAGAN MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, 7TH FLOOR
CLEVELAND, OH 44114-2579

ATTACHMENT: Corrected Filing Receipt

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

MAIL

MAY 21 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037

In re Application of: Richard TAYLOR	)	
Application No. 10/012,465	)	
Filed: December 12, 2001	)	**DECISION ON REQUEST FOR**
For: PROVISION OF SERVICES VIA AN	)	**WITHDRAWAL AS ATTORNEY**
INFORMATION TECHNOLOGY	)	
NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed March 25, 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**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 2 8 2003

Technology Center 2100

Paper No. 5

John W. Ryan
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

In re Application of: Bruno Richard, et al.	)	
Application No. 10/012,466	)	**DECISION ON REQUEST FOR**
Filed: December 12, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD AND APPARATUS FOR	)	
INDEXING FILES	)	

This is a decision on the Request To Withdraw from Representation filed March 25, 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**.

No further communications to you regarding this application will be made. All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

For

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

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

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

Joseph R. Keating, Esq.
1733-A South Hayes Street
Arlington VA 22202

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Ferriol, et al.
Application No. 10/012,521
Filed: December 12, 2001
Attorney Docket No. 51422.2

ON PETITION

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

The petition is **granted**.

This application became abandoned for failure to respond in an appropriate and timely manner to the " Notice to File Corrected Application Papers" (the "Notice") mailed January 24, 2002, which set forth a two (2) month period for reply. The Notice required that substitute drawings being filed. No response was received within the allowable period and the application became abandoned on March 25. 2002.

The substitute drawings filed March 3, 2003, are noted and made of record.

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

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES 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

JOSEPH R. KEATING, ESQ.
2811 NORBORNE PLACE
OAKTON, VA 22124

COPY MAILED

JUN 28 2005

OFFICE OF PETITIONS

In re Application of :
Ferriol et al. :
Application No. 10/012,521 :
Filed: December 12, 2001 :
Attorney Docket No. 51422.2 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 1, 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 November 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 22, 2004. A Notice of Abandonment was mailed June 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 Technology Center 3700 for further examination on the merits.

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

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

UNITED STATES 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

VOLENTINE FRANCOS, P.L.L.C.
Suite 150
12200 Sunrise Valley Drive
Reston, VA 20191

APR 23 2004

In re Application of:
Chung-Sam Jun et al.
Serial No.: 10/012,562
Filed: December 12, 2001
Attorney Docket No.: SEC.0865

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A final Office action was mailed on September 2, 2003, setting a three-month shortened statutory period for response thereto. In an apparent failure to receive a response, the application was held abandoned and a Notice of Abandonment was mailed on March 8, 2004.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending and under appeal status in view of the fact that a Notice of Appeal was filed on March 2, 2004 along with a Request for Reconsideration. Because a timely filed Notice of Appeal is a proper response to a final Office action, the application is not abandoned in fact. Inconvenience to the applicant is regretted.

The application file is being forwarded to the technical support staff for processing the Notice of Appeal and the Request for Reconsideration. From there, the file will be returned to the examiner for consideration of the Request for Reconsideration and taking appropriate action. The time for filing the appeal brief started to run from the date of the Notice of Appeal.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Janice A. Falcone

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 05/07/08

Patent No. : RE39 548 E
Patent Issued : 04/03/07
Docket No. : **CARP-0099**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 02/04/08; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103-3508

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **April 07, 2008**

TO SPE OF : ART UNIT **1643**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/012579** Patent No.: **RE39 548 E**

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The request is not entered because the office published the patent with the incorrect sequence listing. Patentee should request the sequence listing from 10/9/03 be printed

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Larry R. Helms/

Supervisory Patent Examiner AU 1643

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/18/08

TO SPE OF : ART UNIT 1600

SUBJECT : Request for Certificate of Correction on Patent No.: Re 39,548E 10/012,579

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 **7590, 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.

Delora Dillard

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9250 ext. 172

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:

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

SPE

1643
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark D. Lorusso
Lorusso & Loud
15 Rye Street
Suite 312
Portsmouth, NH 03801

COPY MAILED
JUL 14 2005
OFFICE OF PETITIONS

In re Application of
Chris Chappell
Application No. 10/012,580
Filed: December 4, 2001
Attorney Docket No. DSCK-1226-C1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees.

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

The Office acknowledges receipt of the issue and publication fees, which were submitted with the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : April 6, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David L. Brock et al
Application No. :10/012,586
Filed :November 16, 2001

The above-identified application has been assigned Patent No. 6,881,187 and an issue date of April 19, 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 April 19, 2005:

"All reference to Patent No. 6,881,187 to David L. Brock et al of Massachusetts for FLEXIBLE INSTRUMENT appearing in the Official Gazette of April 19, 2005 should be deleted since no patent was granted."

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID LUNDMARK
HANSEN MEDICAL, INC.
380 NORTH BERNARDO AVENUE
MOUNTAIN VIEW, CA 94043

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
David L. Brock et al :
Application No. 10/012,586 :
Filed: November 16, 2001 :
Attorney Docket No. 8491.0011 :

ON PETITION

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3732 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440

COPY MAILED

OCT 18 2005

OFFICE OF PETITIONS

In re	
Koo, et al.	: DECISION REGARDING
Application No. 10/012,606	: PATENT TERM ADJUSTMENT
Filed: December 7, 2001	: AND
Patent No. 6,911,466	: NOTICE OF INTENT TO ISSUE
Issued: June 28, 2005	: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed August 1, 2005, requesting correction of the patent term adjustment (PTA) in Office records.

The request is **DISMISSED**.

The Office acknowledges patentees' letter asserting that applicant delay of one hundred days may be shorter than appropriate. Since applicants' reduction is limited to amount of PTA accrued, the overall amount of PTA would remain zero. See 37 CFR 1.704(a). Accordingly, the Office will not determine whether or not any additional failure to engage in reasonable efforts to conclude prosecution of the application may have occurred.

The Office thanks Patentees for their good faith and candor in bring this matter to the attention of the Office.

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

Karin Ferriter

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

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

COPY MAILED

MAR 13 2007

OFFICE OF PETITIONS

In re Application of
Benjamin Wiegand et al.
Application No. 10/012,626
Filed: December 5, 2001
Attorney Docket No: **JBP-575**

ON PETITION

This is a decision on the petition filed February 27, 2007, under 37 CFR 1.59(b) to expunge information inadvertently submitted in the wrong application.

Petitioners argue that a response to an office action intended for application 10/012,626 was submitted on February 27, 2007 in application no. 10/102,626 and that the failure to correct the submission would cause irreparable harm to application 10/102,626.

Based on a review of the file it appears that petitioner incorrectly identified the application number of the application on the response submitted February 27, 2007, and that the application identified is not prosecuted by the petitioners.

Applicant has established to the satisfaction of the Director that the response filed February 27, 2007 was filed in application number 10/102,626 and that expunging the papers in the incorrect application is appropriate.

However, the present application as filed has been scanned and is maintained in the Office in an Image File Wrapper (IFW). The instant request is not for national security reasons. Thus, the pages will not be removed from the IFW. Instead, the Office has "hidden" the response inadvertently filed on February 27, 2007 in application 10/102,626. See *Reminder of the Proper Procedure for Filing Confidential Information Pursuant to MPEP 724.02(signed April 23, 2004)*, 1282 OG 107 (May 18, 2004).

Accordingly, the petition is **GRANTED**.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael V. Drew
Legal Department
The Mead Corporation
4850D North Church Lane
Smyrna GA 30080

COPY MAILED

FEB 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Duperray et al.	:	
Application No. 10/012,636	:	ON PETITION
Filed: November 13, 2001	:	
Attorney Docket No. D-7780	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 27, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

APR 2 2 2004

OFFICE OF PETITIONS

In re Application of
Ronald A. Weimer et al
Application No. 10/012,665
Filed: October 30, 2001
Attorney Docket No. 4378.1US
(99-0773.01/US)

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

This is a decision on the petition, filed April 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 March 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 0 8 2004
JC61
PATENT & TRADEMARK OFFICE

RECEIVED
APR 2 6 2004
TRASKBRITT, P.C.

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED
APR 2 2 2004
OFFICE OF PETITIONS

In re Application of
Ronald A. Weimer et al
Application No. 10/012,665
Filed: October 30, 2001
Attorney Docket No. 4378.1US
(99-0773.01/US)

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

This is a decision on the petition, filed April 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 March 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OIPE JC19
MAR 0 3 2005
PATENT & TRADEMARK OFFICE

RECEIVED
APR 2 6 2004
TRASKBRITT, P.C.

TRASK BRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED
APR 2 2 2004
OFFICE OF PETITIONS

In re Application of
Ronald A. Weimer et al
Application No. 10/012,665
Filed: October 30, 2001
Attorney Docket No. 4378.1US
(99-0773.01/US)

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

This is a decision on the petition, filed April 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 March 11, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
SEP 23 2004
OFFICE OF PETITIONS

Johnson & Johnson
International Patent Law Division
Attention: Bernard E. Shay
P.O. Box 1222
New Brunswick, NJ 08903

In re Application of
Garry Chambers, et al.
Application No. 10/012,680
Filed: November 13, 2001
Attorney Docket No. USFSEN.082C2

ON PETITION

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

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 Kevin M. Cronin appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Cronin 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. Cronin, 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 **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed January 12, 2004. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 22, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 1753 for further processing of the request for continued examination under 37 CFR 1.114 filed January 12, 2004.

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

cc: KEVIN M. CRONIN
NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-264

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

ON PETITION

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

In re Application of
Reinhard Berger
Application No. 10/012,701
Filed: December 7, 2001
Attorney Docket No. 3191/0K047

This is a decision on the petition, filed June 13, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 8, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERTEX PHARMACEUTICALS INCORPORATED
130 Waverly Street
Cambridge MA 02130-4646

COPY MAILED

MAR 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Kay, et. al	:	DECISION ON PETITION
Application No. 10/012,722	:	
Filed: November 19, 2001	:	
Docket No.: VPI/00-125	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 28, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed May 19, 2006. 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 Notice is accepted as having been unintentionally delayed.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application	:	
Keita, et al.	:	
Application No. 10/012,727	:	DECISION ON APPLICATION
Filed: November 5, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. ESSR:056US/MBW	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed July 20, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred six (406) days to four hundred twenty-eight (428) 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 **four hundred twenty eight (428) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is four hundred six (406) days. On July 20, 2004, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is four hundred twenty-eight (428) days.

Applicants assert entitlement to a patent term adjustment of four hundred twenty-eight (428) days on the basis that the PTO improperly assessed Applicants a delay of twenty-two (22) days for responding to a Notice to File Missing Parts mailed on January 22, 2002. Applicants assert that they timely filed a response on March 25, 2002, within the three month period pursuant to 37 C.F.R. §1.704(b).

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero four hundred six (406) days based on an adjustment for PTO delay of four hundred twenty-eight (428) 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 twenty-two (22) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 22 days is at issue.

The adjustment of 22 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 22, 2002. Applicants timely filed a complete response to this notice on March 25, 2002. As this was timely pursuant to 37 C.F.R. § 1.704(b), no applicant delay should have been assessed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **four hundred twenty-eight (428) days** (428 days of PTO delay and 0 days of applicant delay).

The $200.00 fee set forth in 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 50-1212, as authorized.

Kenny A Fee
fee

[1] Applicants filed the application for patent term adjustment prior to filing the issue fee.

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

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

KF

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI LLP
600 CONGRESS AVE
SUITE 2400
AUSTIN TX 78701

COPY MAILED

SEP 2 3 2005

OFFICE OF PETITIONS

In re	: DECISION ON APPLICATION
Keita, et al.	: FOR PATENT TERM ADJUSTMENT
Application No. 10/012,727	: AND
Filed: November 5, 2001	: NOTICE OF INTENT TO ISSUE
Patent No. 6,887,401	: CERTIFICATE OF CORRECTION
Issued: May 3, 2005	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§1.705(b)" filed July 1, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

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 **five hundred eleven (511)** days.

On May 3, 2005, the above-identified application matured into U.S. Patent No. 6,887,401. The patent issued with a Patent Term Adjustment of three hundred ninety-one (391) days. Patentees point out that they were improperly assessed applicant delay of one hundred twenty (120) days for previously filing an application for patent term adjustment on July 20, 2004.

Patentees fail to state whether the patent is subject to a terminal disclaimer.

The Office determined a patent term adjustment of zero three hundred ninety-one (391) days based on an adjustment for PTO delay of four hundred twenty-eight (428) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1) and eighty-eight (88) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. §1.703(a)(6), reduced by Applicants' delays of five (5) days pursuant 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b) and one hundred twenty (120) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(10). The adjustment of 120 days is at issue.

Pursuant to 37 C.F.R. § 1.704(e), the submission of an application for patent term adjustment will not be considered a failure to engage in reasonable efforts to conclude prosecution of the application.

In view thereof, the correct determination of patent term adjustment at the time of issuance is **five hundred eleven (511) days** (516 (428+88) days of PTO delay and 5 days of applicant delay).

Given the basis for granting this petition, the $200 fee set forth in 37 C.F.R. § 1.18(e) has not been charged.

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 **five hundred eleven (511) 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

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. 6

PETERS VERNY JONES & BIKSA LLP
385 SHERMAN AVENUE, SUITE 6
PALO ALTO, CA 94306

COPY MAILED

OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of	:
Edwin F. Ullman et al	:DECISION DISMISSING PETITION
Application No. 10/012,742	:UNDER 37 CFR 1.137(f)
Filed: December 7, 2001	:
Attorney Docket No. 3817.01-1 (HV)	:

This is a decision on the petition under 37 CFR 1.137(f),[1] filed October 1, 2002, to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on December 7, 2001, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 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 international agreement, that requires publication at eighteen months after filing of the application."

Petitioner now requests under 35 U.S.C. § 122(b)(2)(B)(ii) that the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) be rescinded because an international application was filed on December 7, 2001 and that the application be revived under the provisions of 37 CFR 1.137(f). Petitioner states that "the filing of the Request for Non-publication was unintentional and apparently happened because originally Applicant considered filing only a US application with no corresponding application. The filing documents for the US application were already prepared and by oversight the Request for Non-publication was left in the filing documents."

---

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 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 supplied].

The facts of this case are that the subject application was filed on December 7, 2001, and the corresponding foreign application was also filed on December 7, 2001. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under the multilateral international agreement. In view of petitioner's statement that the corresponding foreign application was filed on December 7, 2001, the same date as the filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 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.

Since the corresponding foreign or international application was filed on the same date as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a petition to revive pursuant to the provisions of 37 CFR 1.137(f) is inappropriate and, consequently, must be dismissed.[2]

---

[2] *Note* www.USPTO.gov., American Inventor's Protection Act of 1999 - Questions & Answers, CQ6.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A corrected Filing Receipt indicating the projected date of publication of January 16, 2003 accompanies this decision.

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(c)(7). Accordingly, the $640 petition fee submitted is not refundable.

This application is being forwarded to Technology Center AU 1637 for examination in due course.

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

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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

April 22, 2003

Douglas H. Tulley
Kimberly-Clark Worldwide, Inc.
401 North Lake St.
Neenah, Wi 54956

In re application of:
Gustavo Palacio, et al DECISION ON PETITION
Serial No.: 10/012,768
Filed: November 5, 200l
For: HYDROENTANGLED NONWOVEN WEB
CONTAINING RECYCLED SYNTHETIC
FIBROUS MATERIALS

This is a decision on the petition received on November 6, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed January 25, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned March 26, 2002.

On November 6, 2002, the office received a communication from attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Parts mailed January 25, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed January 25, 2002.

The petition is hereby GRANTED.

A New Notice to File Missing Parts is enclosed with this Decision setting forth a new response period of two months from the date of the notice.

The office regrets any inconvenience this may have caused the client.

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

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK K JOHNSON
PO BOX 510644
NEW BERLIN WI 53151-0644

COPY MAILED

FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of Lewis, et al. Application No. 10/012,804 Filed: November 6, 2001 Attorney Docket No. Mirus.030.02	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 16, 2006, which is also being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to nonprovisional applications 09/447,966, 09/391,260, 08/975,573, and 08/571,536, and provisional applications 60/121,730, 60/146,564.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in 37 CFR 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 information where there is a question whether the delay was unintentional.

The instant petition does not satisfy requirement (1) above. The amendment submitted concurrently with the instant petition as drafted is unacceptable, and therefore is not considered a proper reference under 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i). In this regard, the amendment does not properly identify application no. 08/975,573. Rather, the amendment seeks to claim the benefit of priority to application no. 09/975,573. Correction is required.

In addition, the amendment seeking to claim the benefit of priority to provisional application nos. 60/121,730 and 60/146,564 is improper because parent application no. 09/447,966 does not contain a proper benefit claim to these applications.

In view of the above, the amendment is not acceptable. Accordingly, a substitute amendment along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be submitted.

Receipt of the $1,370 petition fee is acknowledged.

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

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Anthony Knight
Supervisory 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

MARK K JOHNSON
PO POX 510644
NEW BERLIN WI 53151-0644

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Lewis, et al.	:	
Application No. 10/012,804	:	DECISION ON PETITION
Filed: November 6, 2001	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. Mirus.030.02	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 14, 2008 (and supplemented on March 3, 2009), which is also being treated as a petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 102 and 119(e) for the benefit of priority to nonprovisional applications 09/447,966, 09/391,260, 08/975,573 and 08/571,536, and provisional applications 60/121,730 and 60/146,564.

The petition is **GRANTED.**

Applicants filed a petition under 37 CFR 1.78(a)(6) on March 16, 2006. However, the petition was dismissed in a decision mailed on February 1, 2008. The petition was dismissed because the amendment improperly referenced 09/975,573 instead of 08/975,573. In addition, the decision pointed out that the amendment seeking to claim the benefit of priority to provisional application nos. 60/121,730 and 60/146,564 is improper because parent application no. 09/447,966 did not contain a proper benefit claim to these applications.

On renewed petition, applicants have submitted an amendment, correcting the reference to application no. 08/975,573. In addition, applicants argue that that application no. 09/447,966 did in fact properly claim the benefit to the provisional applications, as indicated by the prosecution history and the published patent.

A petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 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. §§ 120 and 119(e) and 37 CFR 1.78(a)(2)(i) and 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)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed 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 application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 119(e) and 37 CFR 1.78(a)(2) and (a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Petitions Attorney Cliff Congo at (571) 272-3207. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Group Art Unit 1635 for examination in due course.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/012,804	11/06/2001	1635	435	Mirus.030.02	19	2

CONFIRMATION NO. 8903

CORRECTED FILING RECEIPT

83890
ROCHE MADISON INC.
465 Science Drive
Suite C
MADISON, WI 53711

OC000000042535135

Date Mailed: 07/13/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

David Lewis, Madison, WI;
Hans Herweijer, Madison, WI;
James E. Hagstrom, Madison, WI;
Aaron G. Loomis, Prairie du Sac, WI;
Jon A. Wolff, Madison, WI;

Power of Attorney: The patent practitioners associated with Customer Number 83890

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/315,394 08/27/2001
and claims benefit of 60/324,155 09/20/2001
and is a CIP of 09/447,966 11/23/1999 PAT 6,627,616
which claims benefit of 60/121,730 02/26/1999
and claims benefit of 60/146,564 07/30/1999
and is a CIP of 09/391,260 09/07/1999 ABN
which is a CON of 08/975,573 11/21/1997 PAT 6,265,387
which is a CON of 08/571,536 12/13/1995 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 01/14/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/012,804**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Inhibition of gene expression by delivery of small interfering RNA to post-embryonic animal cells in vivo

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742

COPY MAILED

MAY 06 2003

OFFICE OF PETITIONS

In re Application of Brock, et al. Application No. 10/012,845 Filed: November 16, 2001 Attorney Docket No. 8491.7014	: : : : :	DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed April 23, 2003, requesting that the above-identified application be accorded a filing date of November 16, 2001, rather than the presently accorded filing date of November 17, 2001.

Petitioners allege that the application was deposited in Express Mail service on November 16, 2001. In support, the petition is accompanied by a copy of Express Mail Receipt No. EF319411575US (the same Express Mail number found on the original application papers located in the official file) which is stamped by the USPS as mailed on November 16, 2001.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of November 16, 2001.

Since the instant petition has been granted, no petition fee is required.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of November 16, 2001. Thereafter, the application file will be returned to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVID LUNDMARK
HANSEN MEDICAL, INC.
380 NORTH BERNARDO AVENUE
MOUNTAIN VIEW, CA 94043

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of :
David L. Brock et al :
Application No. 10/012,845 :
Filed: November 16, 2001 :
Attorney Docket No. 8491.7014 :

ON PETITION

This is a decision on the petition, filed April 5, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 26, 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 3732 will consider the request for continued examination under 37 CFR 1.114.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VISTA IP LAW GROUP LLP
12930 SARATOGA AVENUE
SUITE D-2
SARATOGA CA 95070

COPY MAILED

JUL 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,169,141 :
Issue Date: January 30, 2007 :
Application No. 10/012,845 : NOTICE
Filed: November 16, 2001 :
Attorney Docket No. 4818 CIP 04 :

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 no longer qualifies for small entity status. Accordingly, all future fees in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. ***See 37 CFR 1.27(c)(2).***

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

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

September 15, 2005

Ralph E. Locher
LERNER AND GREENBERG, P.A.
P. O. Box 2480
Hollywood, FL 33022-2480

Patent No.: **6925700 B2**
Inventor(s): **Kropp, et al.**
Issued: August 9, 2005
Title: **METHOD FOR PRODUCING LARGE-AREA PLANAR WAVE GUIDE STRUCTURES**

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.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 113** or (703) 308-8309

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER AND GREENBERG, P.A.
POST OFFICE BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED
NOV 03 2006
OFFICE OF PETITIONS

In re Application of
Jorg-Reinhardt Kropp et al
Application No. 10/012,852
Filed: October 30, 2001
Attorney Docket No. M&N-IT105

: DECISION DISMISSING PETITION
: UNDER 37 CFR 3.81(b)

This is a decision on the petition, filed September 23, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the 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 assignee's name is International Business Machines Corporation and that International Business Machines Corporation 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 International Business Machines Corporation.

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(h) of this chapter.

The instant request under 37 CFR 3.81(b) was not accompanied by:

A. the petition 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

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

C. a copy of the Notice of Recordation of Assignment Document, reflecting the real and frame number where the assignment(s) is recorded and/or reflecting proof of the date the assignment was submitted for recordation.

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 assignees 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LERNER GREENBERG STEMER LLP
P.O. BOX 2480
HOLLYWOOD, FL 33022-2480

COPY MAILED

APR 21 2009

OFFICE OF PETITIONS

In re Patent No. 6,925,700	:	
Issue Date: August 9, 2005	:	
Application No. 10/012,852	:	ON PETITION
Filed: October 30, 2001	:	
Attorney Docket No. M&N-IT105	:	

This is a decision on the renewed petition filed November 9, 2006, under 37 CFR 3.81(b)[1] to add the 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 application is being forwarded 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 07-06

Paper No: __

TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED
JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Bellaouar, et al.	:	
Application No. 10/012,869	:	DECISION
Filed: 22 October, 2001	:	
Attorney Docket No.: TI32180	:	

This is a decision on the petition under 37 C.F.R. §1.10, filed on 15 May, 2006, and seeking for the above-identified application a filing date of 22 October, 2001, rather than the presently accorded filing date of 6 November, 2001.

NOTES:

An underlying requirement for relief under the regulation is that "[t]he petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date[.]" Nonetheless, Petitioner appears to have ignored the matter for months after the Examiner's non-final Office action was mailed

This matter is addressed with a recognition that the application appears to have been filed during a period of interruption in U.S. Postal Service (USPS) Express Mail service–and further that the period between filing and the first Office action may have had some effect on addressing the matter.

However, upon receipt of the 31 May, 2005, Office action, Petitioner should have been on Notice that the Office was going to accord a filing date other than that sought herein, and

Petitioner has set forth no facts (with supporting documentation) to address the nearly twelve- (12-) month period between that mailing and the filing of the instant petition.

The petition is **DISMISSED**.

BACKGROUND AND ANALYSIS

The controlling regulations are set forth at under 37 C.F.R. §1.10.[1]

---

[1] The regulations at 37 C.F.R. §1.10 provide:

§ 1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office toAddressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior

The record reflects that:

- the instant application, averred by Petitioner Stephen L. Levine (Reg. No. 33,413) to have been transmitted in the package bearing US Postal Service (USPS) Express Mail Label No. EK338727683US, the number also set forth on the transmittal of the instant application, was received by the Office and given a filing date of 6 November, 2001–notably, the Express Mail label contained the hand-written annotation "10-22-01" at the "Date In" panel of the label and an ")CT 22 2001 DALLAS TX RICHLAND STATION" date stamp on the right side of the label;

- while the transmission of the package bearing USPS Express Mail Label No. EK338727683US may have taken place during the interruption in Express Mail service and, further, Petitioner may not have known until the mailing of the Examiner's first Office action on 31 May, 2005, that a date other than 22 October, 2001, might be accorded as the filing date herein, the instant petition addresses none of these matters and Petition also does not address why he appears not to have followed the guidance provided by the Office during this period in the Notices set forth in the Official Gazette.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

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

---

to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] 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).

Should Petitioner wish to do so, he may address these and other matters he considers of import herein in a renewed petition to be filed within two (2) months of the instant decision. No extensions of time will be available for this purpose.

Further correspondence with respect to this matter should be addressed as follows:[3]

By mail: Commissioner for Patents[4]
P.O. Box 1450
Alexandria, VA 22313-1450

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[4] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MUETING, RAASCH & GEBHARDT
P.O. BOX BOX 581415
MINNEAPOLIS, MN 55458-1415

COPY MAILED

MAY 1 0 2006

OFFICE OF PETITIONS

In re Application of
Russell A. Jordan et al
Application No. 10/012,873
Filed: November 6, 2001
Attorney Docket No. 52663US008

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 16, 2006, and resubmitted on April 4, 2006..

The petition 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 Mark J. Gebhardt on behalf of himself and some of the registered attorneys/agents of record.

The requested attorneys/agents of record have been withdrawn.

The below-listed correspondence address of record has **not** been changed.

Telephone inquires concerning this decision should be directed to Karen Creasy at 571-272-3208.

This application is being referred to Technology Center AU 3732 for consideration of the Response filed April 4, 2006.

Denise Pothier for
Amelia Au
Petitions Examiner
Office of Petitions

cc:
JAMES D. CHRISTOFF
P.O. BOX 33427
ST. PAUL, MN 55133-3427

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/13/2006

TO SPE OF : ART UNIT 2800 (2862)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,549,001

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

Ok to make changes to fig. 2, as req. in C of C?

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:

_____

_____

_____

_____

_____

SPE — 2862 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

SCHWEGMAN LUNDBERG WOESSNER & KLUTH
PO BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED
AUG 04 2006
OFFICE OF PETITIONS

In re Application	:
Anderson, et al.	: DECISION ON APPLICATION FOR
Application No. 10/012,886	: PATENT TERM ADJUSTMENT
Filed: November 4, 2001	:
Attorney Docket No. 279.359US1	:
	:

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)", filed June 12, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred twenty-two (422) days to seven hundred eighty-seven (787) 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 **seven hundred eighty-seven (787) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 8, 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 four hundred twenty-two (422) days. On June 12, 2006, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred eighty-seven (787) days.

---

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee, made timely by including a Certificate of Mailing dated June 8, 2006.

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 four hundred twenty-two (422) days based on an adjustment for PTO delay of two hundred fifteen (215) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and two hundred twenty-five (225) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(2), reduced by Applicant's delays of eleven (11) and seven (7) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment os two hundred twenty-five (225) days is at issue.

Applicants state that they filed an RCE on March 26, 2004, but that the date as shown in PAIR is March 26, 2005. Accordingly, Applicants assert that they should be credited 365 days of patent term adjustment.

A review of the record reveals that Applicants are correct. Accordingly, the PTO should have been assessed five hundred ninety (590) days for mailing a Notice of Allowance in response to the RCE on March 8, 2006.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred eighty-seven (787)** days (805 (215+590) days of PTO delay reduced by 18 (7+11) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

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

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

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

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF CHARLES W. BETHARDS, LLP
P.O. BOX 1622
COLLEYVILLE TX 76034

COPY MAILED

JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Robinson et al. :
Application No. 10/012,907 : ON PETITION
Filed: October 30, 2001 :
Attorney Docket Number: PF02138NA/10-27 :
Title of Invention: Coordination Among Mobile :
Stations Servicing Terminal Equipment :

This is a decision on the petition filed November30, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed July 18, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on October 19, 2006. A Notice of Abandonment was mailed November 17, 2006.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL A. SCOLA, JR., ESQ.
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

COPY MAILED

AUG 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Sogard et al.	:	DECISION ON PETITION
Application No. 10/012,919	:	TO WITHDRAW
Filed: October 30, 2001	:	FROM RECORD
Attorney Docket No. S63.2-14460-US01	:	

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 17, 2009.

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

A review of the file record indicates that on May 19, 2009 the power of attorney to Daniel A. Scola, Jr., Esq. Hoffmann & Baron, LLP was 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 be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Vidas, Arrett & Steinkraus, P.A.
Suite 400, 6640 Shady Oak Road
Eden Prairie MN 55344

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/13/07 (Title Page Info only.) Paper No.: —

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/012926 Patent No: 6767228 B2

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

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

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

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

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

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: OK TO ENTER

SPE

1657
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

#10

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

MAILED

OCT 21 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Steven I. Weisburd, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas - 41st Floor
New York NY 10036-2714

Paper No. 10

In re application of
Evelyn Borgia et al.
Application No. 10/012934
Filed: December 10, 2001
For: SYSTEM AND METHOD FOR MANAGING GLOBAL RISK

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

This is in response to the petition filed on May 10, 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 delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition filed May 10, 2002 fails to adequately meet requirement (D) above. Applicant has failed to include a copy of each of the references found and discussed. For the above stated reason, the petition is DISMISSED.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/ekn 10/7/03

#13

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

FEB 12 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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

Steven I. Weisburd, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
1177 Avenue of the Americas - 41st Floor
New York NY 10036-2714

Paper No. 13

In re application of Evelyn Borgia et al. Application No. 10/012934 Filed: December 10, 2001 For: SYSTEM AND METHOD FOR MANAGING GLOBAL RISK	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on November 7, 2003 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz 2/10/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

DANIEL REITENBACH
CROMPTON CORPORATION
BENSON ROAD
MIDDLEBURY, CT 06749

COPY MAILED

MAY 2 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Plasse, Ernest W.	:	
Application No. 10/012,980	:	
Filed: November 5, 2001	:	
Attorney Docket No. 0051-PP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 11, 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 November 10, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on February 11, 2004.

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

The Notice of Appeal filed May 11, 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.

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 11, 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 3600 for further processing.

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

Liana Chase

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7
COPY MAILED

JUN 2 5 2002

OFFICE OF PETITIONS

BRADLEY M GANZ, PC
PO BOX 10105
PORTLAND, OR 97296

In re Application of
Gregory et al.
Application No. 10/013,005
Filed: November 5, 2001
Attorney Docket No. CIR/00-0002
For: RETRIEVAL BASKET FOR A SURGICAL DEVICE AND SYSTEM AND METHOD FOR MANUFACTURING SAME

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

A petition under 37 CFR 1.47(a) was filed on March 8, 2002 (certificate of mailing date of February 26, 2002).

Papers filed on March 18, 2002 (certificate of mailing date of March 7, 2002), included a Declaration signed by a previously non-signing inventor in compliance with 37 CFR 1.63.

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

For the above reasons, the petition is **dismissed as moot**.

Since the March 18, 2002 papers include a request to withdraw the petition and were received prior to consideration of the merits of the petition, the petition fee of $130 will be credited to petitioner's deposit account.

This application is being returned to the the Office of Initial Patent Examination to complete processing of the application.

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

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

RALPH E. JOCKE
WALKER & JOCKE LPA
231 SOUTH BROADWAY
MEDINA OH 44256

COPY MAILED

MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of
DePietro
Application No.: 10/013,012
Filed: November 5, 2001
Attorney Docket No.: D-1149 R2
FOR: DEAL DRAWER APPARATUS

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on December 29, 2005.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 2, 2003, which set a period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) and having received no reply, the Office considered the application abandoned on January 3, 2004. A Notice of Abandonment was mailed on November 9, 2005.

Petitioner requests that the holding of abandonment be withdrawn based on the assertion that a reply was timely deposited in Express Mail service of the United States Postal Service (USPS) on December 30, 2003 and received in the Office on January 4, 2004.

The petition is accompanied by a copy of Express Mail label no. EL966068189US showing a "date-in" of 12/30/03. The same Express Mail label number is listed on the transmittal letter for the amendment.

In addition, petitioner has submitted a copy of his postcard receipt with a PTO Mail Center date stamp affixed thereto, showing that the response to the October 2, 2003 Office action was received in the Office on January 4, 2004. The return postcard constitutes *prima facie* evidence that the correspondence at issue was received in the Office on January 4, 2004. MPEP 503. It is noted that the original correspondence has not been matched with the application file.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EL966068189US was deposited with the USPS on December 30, 2003 and was received in the Office on January 4, 2004 and later misplaced. Petitioner has established that the response to the Office action should be considered as filed on December 30, 2003. 37 CFR 1.10(e).

The petition under 37 CFR 1.181 is granted and the holding of abandonment is withdrawn. No petition fee will be charged in connection with this petition. The amendment should be considered as filed on December 30, 2003, which is the date it was deposited as Express Mail.

After the mailing of this decision, the application will be returned to Technology Center AU 3676 for consideration of the amendment filed by Express Mail on December 30, 2003 and resubmitted with the instant petition on December 29, 2005.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

RALPH E. JOCKE
walker & jocke LPA
231 SOUTH BROADWAY
MEDINA OH 44256

COPY MAILED

JAN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark Depietro	:	
Application No. 10/013,012	:	DECISION ON APPLICATION
Filed: November 5, 2001	:	FOR
Attorney Docket No. D-1149 R2	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed June 9, 2006. Applicants request, in effect, that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to eight hundred seventeen (817) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is eight hundred seventeen (817) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 10, 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. On June 9, 2006, applicant timely submitted an application for patent term adjustment (with required fee)[1]. Applicant asserts that there was no failure to

[1] PALM records indicate that the Issue Fee payment was also received on June 9, 2006.

engage as their response to the non-final Office action mailed October 2, 2003 was deposited in Express Mail (pursuant to 37 CFR 1.10) on December 30, 2003. Further, applicant asserts entitlement to a period of adjustment of 710 days for the Office taking until April 10, 2006 to respond to the response filed December 30, 2003.

Applicant states that any patent granted on this application is not subject to a terminal disclaimer.

A review of the application history reveals that no response to the Office action mailed October 2, 2003 was considered timely filed by the Office and the application became abandoned. Applicant was advised of the abandonment by notice mailed November 29, 2005. In response, on December 29, 2005, applicant filed a petition to withdraw the holding of abandonment. It is specifically noted that the petition to withdraw the holding of abandonment was filed within two months from the mailing date of a notice of abandonment. See § 1.704(c)(4). Moreover, by decision mailed March 3, 2006, the petition was granted on the basis that applicant had shown that a proper response was deposited in Express Mail pursuant to 37 CFR 1.10 on December 30, 2003.

In view thereof, it is concluded that applicant did not fail to engage in reasonable efforts to conclude processing or examination of the application by delaying in replying to the Office action. The period of reduction of 727 days for applicant delay is being removed.

Moreover, applicant is correct that given the showing of deposit of applicant's response in the Express Service of the United States Postal Service, which is treated as the date of receipt in the Office, on December 30, 2003, the application is entitled to a period of adjustment for Office delay. The Office did not take action in response until April 10, 2006. Pursuant to § 1.702(a)(2) and § 1.703(a)(2), the period of adjustment is 710 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, May 1, 2004 and ending on the date of mailing of a notice of allowance under 35 U.S.C. 151, April 10, 2006. A period of adjustment of 710 days is being entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is eight hundred seventeen (817) days.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

Day : Saturday
Date: 1/20/2007

PALM INTRANET

Time: 18:01:48

PTA Calculations for Application: 10/013012			
Application Filing Date:	11/05/2001	PTO Delay (PTO):	107
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	727
Post-Issue Petitions:	0	Total PTA (days):	817
PTO Delay Adjustment:	1437		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
45	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	727		
44	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		727	
43	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	710		
42	01/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	727		
34	04/10/2006	MAIL NOTICE OF ALLOWANCE			
33	04/10/2006	MAIL FORMAL DRAWINGS REQUIRED			
32	04/06/2006	ISSUE REVISION COMPLETED			
31	04/06/2006	FORMAL DRAWINGS REQUIRED			
30	04/06/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
29	03/23/2006	NOTICE OF ALLOWABILITY			
28	03/16/2006	DATE FORWARDED TO EXAMINER			
27	12/29/2005	RESPONSE AFTER NON-FINAL ACTION		727	16
26	03/16/2006	MAIL NOTICE OF RESCINDED ABANDONMENT			
25	03/16/2006	NOTICE OF RESCINDED ABANDONMENT IN TCS			
24	03/03/2006	PETITION TO REVIVE APPLICATION - GRANTED			
23	12/29/2005	PETITION ENTERED			
22	11/29/2005	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	11/28/2005	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	10/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	10/06/2004	CASE DOCKETED TO EXAMINER IN GAU			
16	10/02/2003	MAIL NON-FINAL REJECTION			
15	09/30/2003	NON-FINAL REJECTION			

14	07/23/2003	DATE FORWARDED TO EXAMINER			
13	06/26/2003	RESPONSE AFTER NON-FINAL ACTION			
12	06/26/2003	SUBSTITUTE SPECIFICATION FILED			
11	04/22/2003	MAIL NON-FINAL REJECTION	107		-1
10	04/18/2003	NON-FINAL REJECTION			
9	01/29/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	03/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	03/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	03/09/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	01/16/2002	APPLICATION DISPATCHED FROM OIPE			
4	01/14/2002	APPLICATION IS NOW COMPLETE			
3	01/09/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	12/20/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/05/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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

COPY MAILED

JUN 1 4 2002

OFFICE OF PETITIONS

RALPH E. JOCKE
231 SOUTH BROADWAY
MEDINA OH 44256

In re Application of
Depietro, *et al.*
Application No. 10/013,014
Filed: November 5, 2001
Attorney Docket No. D-1149 R1

DECISION ON PETITION

This is a decision on the February 5, 2002 petition requesting that the above-identified application be accepted as having been received in its entirety, including figures 22, and 23, on November 5, 2001.

The United States Patent and Trademark Office (hereinafter "USPTO") received this application on November 5, 2001. However, on January 22, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a "Notice Of Omitted Items in a Nonprovisional Application" (hereinafter "notice") noting that although the application had been granted a filing date, figures 22 and 23 described the specification were missing. The notice further stated that the filing date would be the date of receipt of the omitted pages of specification unless a petition was filed that successfully showed that the missing item(s) had been included with the application. The notice further stated that if action were taken within two months, then the application would retain its November 5, 2001 filing date and would be processed without the missing pages.

Petitioner responded with the February 5, 2002 filing of this petition. The petition is supported by a copy of the postcard return receipt and includes a copy of the allegedly missing figures. The copy of applicants' postcard receipt indicates receipt of all 21 sheets of drawings with the application on November 5, 2001.

Accordingly, *this petition is* ***granted***.

The $130.00 petition fee paid for this petition is unnecessary and has therefore not been charged to Petitioner's deposit account.

The application is being returned to OPIE for further processing with a filing date of November 5, 2001 using the copy of figures 22 and 23 supplied with this petition.

Any questions regarding this decision should be directed to attorney Scott M. Ledford at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Alex R. Freeman
3733 Lowrey Way
Plano TX 75025

COPY MAILED

APR 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Freeman :
Application No. 10/013,017 :
Filed: November 30, 2001 : ON PETITION
Attorney Docket No. N/A :
For: BIOSENSORS FOR SINGLE CELL AND :
MULTI CELL ANALYSIS :

This is a decision on the petition under 37 CFR 1.137(a), filed January 30, 2007 (certificate of mailing date January 26, 2007), to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The petition is dismissed and the merits of the petition will not be addressed because the correspondence is not signed by a proper party.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

The petition is signed by Alex Freeman. Alex Freeman has not provided an attorney/agent registration number. Alex Freeman has not shown that he is an authorized representative of an assignee who has right to take action. It is noted that Alex Freeman is one of two joint inventors.

In short, Alex Freeman has not established that he is permitted to file a petition in this application on his own.

In any reconsideration petition, petitioner is encouraged to either (a) submit Alex Freeman's registration number; (b) submit an appropriate 3.73(b) statement on behalf of the assignee establishing ownership of the invention, signed by a person authorized to act on behalf of the

assignee (the person authorized to act on behalf of the assignee should be Alex Freeman and in this manner, the signature on instant petition will be ratified); (c) submit a petition signed by both joint inventors; or (d) submit a power of attorney signed by both joint inventors, giving Alex Freeman the right to represent them both with respect to the prosecution of this application. (Option (d) allows the undersigned to treat the present petition, which was signed by only Mr. Freeman.)

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

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

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

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

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

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Alex R. Freeman
3733 Lowrey Way
Plano TX 75025

COPY MAILED

JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Freeman, et al.	:	
Application No. 10/013,017	:	
Filed: November 30, 2001	:	ON PETITION
Attorney Docket No. N/A	:	
For: BIOSENSORS FOR SINGLE CELL AND	:	
MULTI CELL ANALYSIS	:	

This is a decision on the petition under 37 CFR 1.137(a), filed June 12, 2007, to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to properly and timely reply to the final Office action, mailed August 24, 2005, which set an extendable three month period for reply. Applicants filed an amendment after final on December 5, 2005 (certificate of mailing date November 23, 2005), that failed to place this application in prima facie condition for allowance, as was explained in the advisory action, mailed January 12, 2006. An RCE was filed on March 6, 2006 (certificate of mailing date February 28, 2006), however, it was filed beyond the maximum extendable period for reply. Therefore, the application became abandoned on November 25, 2005. A Notice of Abandonment was mailed on October 6, 2006.

A petition filed January 30, 2007 (certificate of mailing date January 26, 2007), was summarily dismissed on April 12, 2007 because it was not signed by a proper party.

The present petition is signed by both joint inventors and ratifies the prior filed petition.

Applicants argue the delay in filing a proper reply was unavoidable because "the fee that was paid by a check has bounced from the bank leading to unavoidable delay."

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

The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The undersigned does not understand the proffered reason for the delay. The RCE filed on March 6, 2006 (certificate of mailing date February 28, 2006) was filed **after** the expiration of the maximum obtainable period for response. (The 6 month deadline was February 24, 2006.) Therefore, the application was irretrievably abandoned when the RCE was filed. The Office has no record of receiving a check (presumably for an extension of time?) in connection with the RCE, and even if it did, it would make no difference to the outcome of this decision on petition. Even if the Office received an extension of time payment on certificate of mailing date February 28, 2006, it would have been too late.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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

ALTERNATE VENUE

Petitioners are encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required $750.00 petition fee.

It is noted that petitioners paid $750.00 with the present rule 137(a) petition. The undersigned has applied $250.00 of that fee towards the Rule 137(a) petition fee. The remainder of the fee, $500.00, can be applied towards the petition fee due for any future filed Rule 137(b) petition. Therefore, **a $250.00 balance will be due if a Rule 137(b) petition is filed**.

Unless otherwise directed, the undersigned will consider the RCE, filed March 6, 2006 (certificate of mailing date February 2 and previously unentered amendment, filed December 5, 2005 (certificate of mailing date November 23, 2005) as the reply in any reconsideration Rule 137(a) petition or any new Rule 137(b) petition.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioners' convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

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

By mail:

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

By hand:

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

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

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

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 7

ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS MN 55344-7704

MAIL

DEC 04 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
James T. MacDonald, et al.
Application No. 10/013,028
Filed: November 5, 2001
For: FLEXIBLE EARHOOK

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed October 3, 2003, requesting the holding of abandonment be withdrawn in the above-identified application.

This application was held abandoned for failure to the non-final Office action mailed September 12, 2002. A Notice of Abandonment was mailed September 24, 2003.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of a response, request for an extension of time and transmittal sheet on February 19, 2003. Petitioner has also submitted a copy of the items.

M.P.E.P. § 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

The response is considered timely filed since the post card receipt bears a date of February 19, 2003, more than three months from the mailing of the Office action, where the response includes a certificate of mailing certifying deposit on February 12, 2003. Accordingly, the copy of the response is accepted.

In view of the above stated reasons, the Notice of Abandonment is hereby 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 entry of the copy of the response. From there, the file will be forwarded to the examiner for appropriate action in due course.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 11-02

Paper No. 6

ADRIAN T. CALDERONE
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

COPY MAILED
NOV 27 2002
OFFICE OF PETITIONS

In re Application of	:
Duatartas, Sherrer, Ricks, and	:
Steinberg	:
Application No. 10/013,084	: DECISION REFUSING STATUS
Filed: 10 December, 2001	: UNDER 37 CFR 1.47(a)
Atty Docket No. ACT-173 (1117-11)	:

This is in response to the petition filed under 37 CFR 1.47(a) on 12 August, 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 10 December, 2001, without an executed oath or declaration. Accordingly, on 10 January, 2002, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 12 August, 2002, petitioners filed the present petition, along with a five (5) month extension of time and a declaration naming Mindaugas F. Dautartas, David W. Sherrer, Neal

Ricks, and Dan A. Steinberg as joint inventors and signed by all of the joint inventors except Steinberg on behalf of themselves and joint inventor Steinberg.

Petitioners state that joint inventor Steinberg refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

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

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not provided proof that Steinberg was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the 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.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

It is also noted that the last page of the declaration as filed is marked "Page 5 of 6". It is unclear whether pages containing additional inventors' names were omitted from the declaration

[1] MPEP 409.03(d).

when it was filed in the USPTO. 37 CFR 1.41(a)(1) now defines the inventorship of a non-provisional application as that inventorship set forth in the oath or declaration filed to comply with the requirements of 37 CFR 1.63.[2] Therefore, a petition under 37 CFR 1.48 is required if additional inventors are to be added.

The Power of Attorney filed on 12 August, 2002, cannot be accepted because it is signed by fewer than all of the inventors.[3] An assignee filing a revocation or power of attorney must establish its right to act in the prosecution of this application.[4] The assignee must submit evidence of ownership in accordance with 37 CFR 3.73(b). A courtesy copy of this decision will be sent to the address on the petition. All future correspondence, however, will be send solely to the correspondence address of record.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. The petition fee of $130.00 has been charged to counsel's deposit account, No. 50-0369, as authorized in the petition.

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

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

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

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

---

[2] MPEP 605.

[3] MPEP 402.10.

[4] See 37 CFR 3.73.

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

D Wood

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

cc: MARIA ELISEEVA
BROWN RUDNICK BERLACK ISREALS LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Paper No. 9

ADRIAN T. CALDERONE
DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

COPY MAILED

JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of Duatartas, Sherrer, Ricks, and Steinberg Application No. 10/013,084 Filed: 10 December, 2001 Atty Docket No. ACT-173 (1117-11)	DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on 14 January, 2003, in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on 27 November, 2002, included a Declaration signed by the previously non-signing inventor, Dan A. Steinberg, in compliance with 37 CFR 1.63.

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

The revocation and power of attorney by assignee submitted with the present petition cannot be accepted because it has not been signed by the inventors, inventors, assignee of record of the entire interest, or an attorney or agent of record. If a change of correspondence address is filed by an assignee, the assignee must establish its right to take action in accordance with 37 CFR 3.73. Additionally, any statement signed on behalf of an assignee must be signed by a person having apparent authority to sign on behalf of the assignee (president, vice president, secretary, or treasurer), or must include a statement that the person signing the submission is authorized to act on behalf of the assignee. The power of attorney was not signed by a person with apparent authority and does not include any such statement.

A courtesy copy of the decision will be sent to the address listed on the power of attorney. All future correspondence, however, will be sent solely to the address of record.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: MARIA ELISEEVA
BROWN RUDNICK BERLACK ISREALS LLP
ONE FINANCIAL CENTER, 18TH FLOOR
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN S. PRATT
KILPATRICK STOCKTON
1100 PEACHTREE STREET
ATLANTA, GA 30309

COPY MAILED

DEC 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Hideyuki Andoh :
Application No. 10/013,087 : ON PETITION
Filed: December 7, 2001 :
Attorney Docket No. 44471267680(13700) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 14, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 24, 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 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 2 9 2003

Technology Center 2100

Paper No. 6

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

In re Application of: Bahman Zargham, et al.	)	
Application No. 10/013,091	)	
Filed: December 07, 2001	)	**DECISION ON REQUEST FOR**
For: ZERO LATENCY ENTERPRISE	)	**WITHDRAWAL AS ATTORNEY**
ENRICHED PUBLISH/SUBSCRIBE	)	

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

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

The request is **GRANTED**.

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

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

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Attn: Bill Streeter

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 00-02

Paper No. 6

DAVID L. FEHRMAN
MORRISON & FOERSTER LLP
35TH FLOOR
555 W. 5TH STREET
LOS ANGELES CA 90013

COPY MAILED

SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of	:
Tetsuo Nishimoto	:
Application No. 10/013,096	: DECISION DISMISSING
Filed: 6 December, 2001	: PETITION
Attorney Docket No. 393032029100	:

This is a decision on the petition filed on 3 September, 2002, requesting that the above-identified application be accorded a filing date of 7 December, 2001, instead of the presently accorded filing date of 6 December, 2001.

The petition is **DISMISSED**.

Petitioner requests the later filing date on the basis that the application was purportedly deposited in Express Mail service on 7 December, 2001, pursuant to the requirements of 37 CFR 1.10. Petitioner states that the date of deposit on the Express Mail label is incorrect. In support, the petition is accompanied by a receipt from the USPS dated 12/07/01 at 4:17 pm showing that postage was paid for an "Express Mail Post Office to Addressee" and listing Express Mail tracking number EL824966934US, the same tracking number contained on the transmittal sheet and Express Mail mailing label for the present application located in the official file.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be

> accorded the Office receipt date as the filing date.[1] (emphasis added)

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

The petition lacks the showing required by item (3) above. The instant petition is not supported by corroborating evidence showing that the correspondence was deposited as Express Mail prior to the last scheduled pickup on the requested filing date.

The receipt showing the time and date that the postage fee for the above-referenced Express Mail number was charged to petitioner's USPS corporate account is insufficient to show the time and date of deposit in Express Mail service. It is noted

---

[1] See 37 CFR 1.6(a).

that the postage shows a 7 December, 2001 date thereon. However, the date on which postage was applied to an Express Mail package does not establish the date the package was deposited with the USPS.

Any renewed petition should be accompanied by evidence from the USPS establishing the date the application was deposited as Express Mail (*e.g.*, Express Mail Corporate Account Mailing Statement or a letter from the USPS showing the date the application was accepted in Express Mail service).

Alternatively, petitioners may provide evidence that came into being after deposit and within one business day of deposit (e.g. a log book with an entry after mailing, or a letter to the client sent after the Express Mail package was mailed.

Petitioners should also note that there is no provision in the rules for a certificate of mailing by "Express Mail".[2] In accordance with 37 CFR 1.10(d)(3), the Express Mail certificate of mailing may not serve as evidence of timely mailing because it was created prior to the deposit of the application in Express Mail.

As the petition is not accompanied by corroborating evidence required by the rule, the petition is dismissed.

No petition fee is due and none has been charged.

Any request for reconsideration (no further petition fee is required) must be filed within TWO MONTHS of the date of this decision in order to be considered timely [37 CFR 1.181(f)]. The request 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 4
Room 3-C23
2201 South Clark Place
Arlington, VA 22202

---

[2] See 1174 O.G. Pat. Of. 92 (May 16, 1995).

The application is being forwarded to Technology Center 3700 for examination in due course with the presently accorded filing date of 6 December, 2001.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER J. GORDON, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY, MA 01876

COPY MAILED

JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of Oliver Morgan, et al. Application No. 10/013,097 Filed: December 6, 2001 Attorney Docket No. A00023(2)	: : : :	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 17, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional Application No. 60/254,039, filed December 7, 2000.

The petition is **DISMISSED.**

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

(1) the reference to the prior filed provisional application supplied in an application data sheet (ADS) (37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(iii);

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

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1). Accordingly, before the petition can be granted, petitioner must submit the reference to the prior-filed application in either an amendment to the first line of the specification or in an Application Data Sheet (ADS). The amendment or ADS should be accompanied by a "Renewed Petition under 37 CFR 1.78(a)(6).

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this decision on petition may be directed to Retta Williams at (571) 272-3229.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PETER J. GORDON, PATENT COUNSEL
AVID TECHNOLOGY, INC.
ONE PARK WEST
TEWKSBURY, MA 01876

COPY MAILED

OCT 1 9 2005

OFFICE OF PETITIONS

In re Application of
Oliver Morgan, et al.
Application No. 10/013,097
Filed: December 6, 2001
Attorney Docket No. A00023(2)

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional Application No. 60/254,039, filed December 7, 2000.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after 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 under 37 CFR § 1.78(a)(6) must be accompanied by:

(1) the reference to the prior filed provisional application supplied in an application data sheet (ADS) (37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5)(iii);

(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 where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the

prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Retta Williams at (571) 272-3229. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2162 for appropriate action on the amendment submitted July 29, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/254,039.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

JOHN L. ISAAC, ESQ.
ISAAC & ASSOCIATES
SUITE 900
143 UNION BLVD.
LAKEWOOD, CO 80228-1829

COPY MAILED

MAY 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Verini, Nicholas A.	:	
Application No. 10/013,099	:	ON PETITION
Filed: December 6, 2001	:	
Attorney Docket No. 7030.02.03	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 1, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a proper and timely manner to the restriction requirement mailed December 6, 2002, 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 January 7, 2003. A Notice of Abandonment was mailed on November 17, 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 3600 for further examination on the merits.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Beyer Weaver & Thomas, LLP
PO Box 778
Berkeley, CA 94704-0778

COPY MAILED
APR 0 9 2004
OFFICE OF PETITIONS

In re Application of :
Chris J. Novak :
Application No. 10/013,126 :
Filed: December 7, 2001 :
Attorney Docket No. APL1P197D1/P2401 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 22, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Non-Final Office action mailed July 15, 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 October 16, 2003.

The application file is being forwarded to Technology Center AU 2673 for further processing.

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

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Turner et al.
Application No. 10/013,141
Filed: December 10, 2001
Attorney Docket No. A34162-A-065838.0326

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed on May 16, 2002, requesting that an inventor be allowed to file the application on behalf of herself and the joint-inventor who allegedly refuses to join in this application.

The petition is **DISMISSED.**

There are 2 inventors named for the claimed invention in this application: Gregory Turner ("Turner") and Denise Howard ("Howard"). The application as filed on December 10, 2001 did not include a properly signed oath or declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. On January 28, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application, giving Applicants an extendable 2-month period within which to submit a proper oath or declaration. In response, the instant petition was filed along with a request for a 2-month extension of time and the requisite extension-of-time fee, asserting that Turner has refused to join in this application, and requesting that a "Combined Declaration and Power of Attorney" signed only by Howard ("5/16/02 Declaration") be accepted such that Howard may make this application on behalf of herself as well as Turner.[1]

Howard may file this application on behalf of herself and Turner, provided that a *bona fide* attempt has been made to present to Turner, for signature, a copy of the **entire application (specification including claims)**;[2] and that the latter refuses to join in this application. To show that Turner has refused to join in this application despite a *bona fide* attempt made to present to

---

[1] A 6/3/02 Notice of Incomplete Reply (Nonprovisional) was sent in error and is hereby vacated.

[2] MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN (A refusal by an inventor to sign an oath/declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join in the application unless it is clear that the inventor understands exactly what he is being asked to sign and refuses to accept the application papers.); also citing In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956) (It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath/declaration is directed.).

No drawings were included in this application upon filing.

him for signature a copy of the entire application, the petition must include, *inter alia*, a **statement of facts** concerning the circumstances of the presentation of the application papers to Turner at his last known address,[3] and his subsequent refusal.[4]

The petition states that Turner refuses to sign the declaration "after diligent effort."[5] To support this assertion, the petition encloses a declaration by an Ann Kelly ("Kelly") ("Kelly Declaration"), apparently an employee of Turner's former employer. The pertinent part of the Kelly Declaration points out that Kelly has written to Turner on 2 occasions, asking him to sign the Declaration/ Power of Attorney for this application.[6] While Turner's non-response to the Kelly letters is relied upon for concluding that Turner refuses to join in this application,[7] there is no evidence in the petition or the Kelly Declaration that a copy of the entire application, including the specification and claims, was ever provided to Turner for review prior to his alleged refusal to join in this application. Consequently, the Office is unable to conclude that the Kelly Declaration constitutes the "statement of facts" required for granting a petition under 37 CFR 1.47(a). The instant petition is thus dismissed and the 5/16/02 Declaration is not accepted.

Options

To prevent abandonment of this application, **either** of the following must be filed within **TWO MONTHS** from the mailing date of this decision:[8]

(1) An oath/declaration properly executed by **both** Turner and Howard;[9]

OR,

(2) A request for reconsideration of this decision (renewed petition under 37 CFR 1.47(a); no fee), that:

---

3 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

4 See MPEP section 409.03(d) (Aug. 2001).

5 Petition, page 1, lines 3-4.

6 Kelly Declaration, paragraphs 4, 6.

7 See petition, page 1, lines 3-4; page 2, lines 8-9 & last 2 lines in 3rd full paragraph.

8 Unless proper extension(s) of time under 37 CFR 1.136(a) is (are) obtained. See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) to avoid abandonment.).

9 **Submit directly to OIPE along with a copy of this Decision.**

-includes appropriate **statement(s) of facts**, stating that the **entire application papers, including the specification and claims**, were presented to Turner at his last known address; and of the facts relied upon to conclude that Turner refuses to join in this application;[10] and

-is addressed as follows:

by mail/by hand:	Assistant Commissioner for Patents USPTO Attn: Office of Petitions Crystal Plaza Four, Suite CP4-3C23 2201 South Clark Place Arlington, VA 22202
by fax:	(703)308-6916 Attn: Office of Petitions

Finally, the Office acknowledges receipt with the instant petition of the $130 petition fee and the $130 surcharge for failing to submit an acceptable oath/declaration upon filing of the application; and on May 28, 2002 of an assignment document for recordation in the USPTO.

Telephone inquiries concerning this decision should be directed to Petitions Attorney RC Tang at (703) 308-0763.

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

---

[10] The statement(s) of facts must be made and signed by those who presented the application papers to Turner/concluded that Turner refused to join in/to whom Turnerr's refusal to join in was made. See MPEP section 409.03(d) (Aug. 2001). Statements based on hearsay will not be considered.

To ensure grantability of the renewed petition under 37 CFR 1.47(a), Howard/counsel must, if not having already done so, **provide** Turner with a copy of the entire application papers **and** allow him reasonable time to review before deciding whether to sign.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PAUL HASTINGS JANOFSKY & WALKER, LLP
875 15TH STREET NW
WASHINGTON, DC 20005

COPY MAILED

APR 24 2009

OFFICE OF PETITIONS

In re Application of :
Huafeng WEN :
Application No. 11/013,152 :
Filed: December 14, 2004 :
Attorney Docket No. **71784-01601.UTL** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 21, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PAUL HASTINGS JANOFSKY & WALKER, LLP** has been revoked by the assignee of the patent application on February 19, 2009. 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: **ALIGN TECHNOLOGY**
C/O WAGNER BLECHER, LLP
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

UNITED STATES 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 08 2005

Arthur G. Schaier
CARMODY & TORRANCE LLP
P.O. BOX 1110 .
50 Leavenworth Street
Waterbury CT 06721-1110

In re Application of:
Feng-Tso Chien et al.
Serial No.: 10/013,158
Filed: December 10, 2001
Attorney Docket No.: **25740-01A**

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 March 11, 2005.
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 Arthur G. Schaier, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

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

All future communications from the Office will be directed to first named inventor Feng-Tso Chien, 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: Feng-Tso Chien
No. 71, Hung-Yang Rd.
Chung-Li City
Taoyuan Hsien Taiwan

UNITED STATES 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 : 09/19/07

Patent No. : 7216094 B2
Inventor : LY, KELLY
Patent Issued : 05/08/07
Docket No. : **6968.01**

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(s) 6, 9 and 11 lines 14-15, 60, 47 and 52 are 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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1498

Cbn/Lmn

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

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

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Goshorn, *et al.*
Application No. 10/013,173
Filed: December 7, 2001
Attorney Docket No. 690022.547C1

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

This is in response to the July 17, 2002 petition under 37 C.F.R. §1.47(a).

Applicant filed the above-identified application on December 7, 2001. However, the application lacked the declaration required by 37 C.F.R. §1.53. Accordingly, on January 17, 2002, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts (hereinafter "the notice") to the address of record.[1] The notice set a two month deadline for responding, running from the mail date of the notice.

Petitioner filed his response to the notice (which included a petition for a four month extension of time and payment of all outstanding fees) on July 17, 2001.

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

This application will be forwarded to the OIPE for further processing under rule 1.47(a).

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-5593

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Also missing were the statutory basic filing fee and additional claims fees.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. John Reno
2452 Elm Drive
Brier, Washington 98036

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Goshorn, *et al.*
Application No. 10/013,173
Filed: December 7, 2001
Attorney Docket No. 690022.547C1

Dear Dr. Reno:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703-306-5593. Requests for information regarding your application should be directed to the File Information Unit at 703-308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification division at 703-308-9726 or 1-800-972-6382 (outside the Washington, D.C. area).

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

ALBERT S. PENILLA
MARTINE PENILLA & KIM, LLP
710 LAKE WAY DRIVE, SUITE 170
SUNNYVALE, CA 94086

COPY MAILED

APR 16 2001

OFFICE OF PETITIONS
A/C PATENTS

J1003 U.S. PTO
10/013177
12/07/01

In re Application of
Ju Yung Sohn et al
Application No. 09/422,212
Filed: October 19, 1999
For: METHODS FOR FORMING GROUND VIAS IN SEMICONDUCTOR PACKAGES

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 30, 2000 and supplemented on March 5, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventor (Marcos Karnezos) has refused to join in the filing of the above-identified application.

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

Petitioner submitted an extension of time fee of $870 at the time of filing the May 30, 2000 petition under 37 CFR 1.47(a). However, in order for the petition to be timely filed, a four month extension was necessary. Accordingly, as authorized, the $490 balance for the four month extension of time fee will be charged to petitioner's Deposit Account No. 50-0805.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 2800 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Timothy J. Hadlock
Chevron Texaco Corporation
P.O. Box 6006
San Ramon CA 94583-0806

COPY MAILED

OCT 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Charles F. Guthrie, et al.	:	
Application No. 10/013,195	:	DECISION ON PETITION
Filed: December 7, 2001	:	
Attorney Docket No. Z-0007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 26, 2007. The Notice of Abandonment was mailed January 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2123 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Timothy J. Haddock**
Chevron Corporation, Law Department
6001 Bollinger Canyon Road
San Ramon, CA 94583-2324

UNITED STATES 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.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

COPY MAILED

OCT 28 2004

OFFICE OF PETITIONS

In re Application Nanko et al. Application No. 10/013,200 Filed: November 6, 2001 Atty Docket No. 07648.0024	DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT," filed September 16, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred eight (408) days to four hundred twenty (420) 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 four hundred twenty **(420)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 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 408 days. On September 16, 2004, applicant timely[1] submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 12 days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts of Application mailed January 14, 2002. Applicants submit a copy of their date-stamped itemized return postcard to show that the response was filed within three months, on March 25, 2002.

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

The reduction of 12 days has been found to be incorrect. A review of the application file reveals that applicant's response to the Notice to File Missing Parts of Application mailed January

[1] The Issue Fee payment was received in the Office on September 28, 2004.

14, 2002, is of record in the application with a date of receipt by the Office of March 25, 2002. Furthermore, the response included a complete reply to the Notice. Thus, the Office should not have assessed applicants a delay of 12 days. The response was filed within the three-month period under 37 CFR 1.704(b) and accordingly, applicant's delay should have been assessed as zero (0) days. Applicants did not fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is four hundred twenty (420) days.

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

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

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

Karin 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 2 1 2007

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

In re Patent No.	:	
7,099,6881	:	
Application No. 10/013,209	:	DECISION GRANTING PETITION
Filing Date: December 7, 2001	:	
Issue Date: August 29, 2006	:	
Attorney Docket No. 076022-0012	:	

This is a decision on the petition under 37 CFR 1.182, filed November 7, 2007, requesting issuance of duplicate Letters of Patent for the above-identified patent.

The petition is **granted**.

The file record discloses that the above-cited application matured into U.S. Patent No. 7,099,688 on August 29, 2006. Petitioner contends, however, that the patent was received but lost thereafter.

In view of the facts set forth in the petition, it is concluded that the original Letters of Patent was lost after receipt. The Publishing Division is directed to issue duplicate Letters of Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3222. Any questions concerning issuance of the duplicate Letter of Patent should be directed to Krystal Paige at (703)308-9250.

A copy of this decision is being forwarded to the Office of Patent Publications for issuance of a duplicate Letter of Patent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc: Krystal Paige, P/OPPD, Crystal Park 3-910 (Fax 571-270-9937)

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

Paul J. Esatto, Jr.
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

COPY MAILED

JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of :
Fujieda :
Application No. 10/013,263 : DECISION GRANTING
Filed: December 7, 2001 : PETITION
Attorney Docket No. 14309 :

This is a decision on the petition filed February 26, 2002 to establish that page 54 was part of the originally filed application.

On December 7, 2001, the application was filed.

On January 25, 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 7, 2001, and advising applicants that page 54 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 54 was deposited on December 7, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "New Patent Application (69 pages including claims and abstract)" on December 7, 2001.[1] Petitioner has also submitted a copy of the missing documentation- page 54 of the specification.

Upon review of the record, page 54, deposited on December 7, 2001, has not been located. However, the evidence is convincing that the application papers deposited on December 7, 2001, included page 54 and that page 54 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 54 submitted with the petition will be used for examination purposes.

No petition fee is required and the petition fee will be scheduled to be refunded.

The Notice mailed January 25, 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 7, 2001, using the application papers filed on December 7, 2001, and the copy of page 54 of the specification filed on February 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.

Charles Steven Brantley
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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 11, 2006

TO SPE OF : ART UNIT 1651

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/013270nt No.: 7,122,200 B2

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

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

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

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 1651 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

BOSTON PROBES INC.
75E WIGGINS AVENUE
BEDFORD, MA 01730

COPY MAILED

SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of Gildea, et al. Application No. 10/013,283 Filed: November 30, 2001 Attorney Docket No. BP9801IUS-DV1	: : : : :	DECISION GRANTING PETITION

This is a decision on the "Petition to Correct Filing Date under 37 CFR § 1.10," filed August 26, 2002, requesting that the above-identified application be accorded a filing date of November 30, 2001, rather than the presently accorded filing date of October 30, 2001.

Petitioner maintains, in essence, that the above-identified application was deposited in compliance with 37 CFR § 1.10 on November 30, 2001, and thus, is entitled to a filing date of November 30, 2001. The filing receipt received by applicant on May 1, 2002 was returned to the Office with a request for correction of filing receipt. In response, the Office sent a communication advising applicant of the option of filing a petition under § 1.10, including a copy of the Express Mail label (Response mailed August 1, 2002). Accordingly, the instant petition was filed along with a copy of the Express Mail mailing label used, No. ET382695733US.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of §1.10(c)(1). The application papers of record and presently accorded a filing date of October 30, 2001 bear the Express Mail label No. ET382695733US. Thus, it is concluded that the Express Mail No. was placed on the correspondence prior to the original mailing date. A review of the true copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is not entirely legible, but appears to show a "date-in" of November 30, 2001. Furthermore, the Express Mail mailing label bears an official USPS date-stamp of November 30, 2001.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary. The $130 fee authorized will not be charged to petitioner's Deposit Account.

The request for corrected filing receipt requests that the receipt be mailed to an address different from the address of

record. However, the petition does not include a request for a change of correspondence address. A courtesy copy of this decision is being mailed to this address. All future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to November 30, 2001; and for mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 1637 for examination in due course.

Telephone inquiries specific 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

cc: Boston Probes, Inc.
Attn: Brian D. Gildea, Esq.
15 DeAngelo Drive
Bedford, MA 01730

OIPE JC119
SEP 17 2002
PATENT & TRADEMARK OFFICE

0380

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

BOSTON PROBES INC.
75E WIGGINS AVENUE
BEDFORD, MA 01730

RECEIVED
SEP 17 2002
OFFICE OF PETITIONS

COPY MAILED
SEP 06 2002
OFFICE OF PETITIONS

In re Application of
Gildea, et al.
Application No. 10/013,283
Filed: November 30, 2001
Attorney Docket No. BP9801IUS-DV1

DECISION GRANTING PETITION

This is a decision on the "Petition to Correct Filing Date under 37 CFR § 1.10," filed August 26, 2002, requesting that the above-identified application be accorded a filing date of November 30, 2001, rather than the presently accorded filing date of October 30, 2001.

Petitioner maintains, in essence, that the above-identified application was deposited in compliance with 37 CFR § 1.10 on November 30, 2001, and thus, is entitled to a filing date of November 30, 2001. The filing receipt received by applicant on May 1, 2002 was returned to the Office with a request for correction of filing receipt. In response, the Office sent a communication advising applicant of the option of filing a petition under § 1.10, including a copy of the Express Mail label (Response mailed August 1, 2002). Accordingly, the instant petition was filed along with a copy of the Express Mail mailing label used, No. ET382695733US.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of §1.10(c)(1). The application papers of record and presently accorded a filing date of October 30, 2001 bear the Express Mail label No. ET382695733US. Thus, it is concluded that the Express Mail No. was placed on the correspondence prior to the original mailing date. A review of the true copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is not entirely legible, but appears to show a "date-in" of November 30, 2001. Furthermore, the Express Mail mailing label bears an official USPS date-stamp of November 30, 2001.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary. The $130 fee authorized will not be charged to petitioner's Deposit Account.

The request for corrected filing receipt requests that the receipt be mailed to an address different from the address of

record. However, the petition does not include a request for a change of correspondence address. A courtesy copy of this decision is being mailed to this address. All future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to November 30, 2001; and for mailing of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 1637 for examination in due course.

Telephone inquiries specific 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

cc: Boston Probes, Inc.
Attn: Brian D. Gildea, Esq.
15 DeAngelo Drive
Bedford, MA 01730

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

COPY MAILED

JUN 27 2006

OFFICE OF PETITIONS

In re Patent No. 6,916,634	:
Issued: July 12, 2005	: DECISION UNDER 37 CFR
Application No. 10/013,294	: 1.705(d)
Filed: December 10, 2001	:
Docket No.: 00-1312-F	:

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT CALCULATION UNDER 37 C.F.R. §1.705(d)," filed September 12, 2005.

The application for PTA under 37 CFR 1.705(d) is hereby **DISMISSED**.

The above-identified application matured into U.S. Patent No. 6,916,634 on July 12, 2005. The patent issued with a PTA of 317 days. The instant application for PTA was timely filed September 12, 2005. Applicant argues that the 280 day reduction for applicant delay is in error.

A review of the application history reveals that at the time of issuance of the patent, the application was entitled to an adjustment of 597 days in accordance with 37 CFR 1.702(a)(4) and 1.703(a)(6). The adjustment of 597 days was properly reduced a total of 317 days.

The adjustment of 597 days was properly reduced 120 days under 37 CFR 1.704(c)(10)(ii) in connection with the Information Disclosure Statement (IDS) filed July 23, 2003.

Applicant argues that the reduction of 120 days is "excessive" and "unreasonable," and argues that the Office took over seven months to notify applicant that the IDS failed to comply with the requirements of 37 CFR 1.97(e). Applicant's arguments have been considered but are found unconvincing. In accordance with 37 CFR 1.704(c)(10), submission of an amendment or other paper after the Notice of Allowance has been given or mailed constitutes a failure to engage in reasonable efforts to conclude prosecution (or processing) and results in a reduction of any potential period of adjustment. In this instance, the

maximum reduction of four months, or, 120 days, was assessed. Applicant's assertion that the response to the IDS filed July 23, 2003 was long in coming is without merit given the instant patent was accorded an adjustment of 597 days for the Office's failure to issue the patent within four months of the date of receipt of the issue fee payment in accordance with 37 CFR 1.702(a)(4) and 1.703(a)(6).

The adjustment of 597 days is further reduced 40 days in accordance with 37 CFR 1.704(c)(10) in connection with the IDS submitted April 26, 2004. The reduction began April 27, 2004, the day after the date that the IDS was submitted, and ended June 3, 2004, the date a reply was mailed.

Applicant argues that this reduction is "unwarranted" because applicant was already charged with a delay relating to the initial IDS submitted July 23, 2003. Applicant's argument has been considered but found unconvincing. As previously indicated, submission of an amendment or other paper submitted after Notice of Allowance has been given or mailed is deemed a failure to engage in reasonable efforts to conclude prosecution (or processing) and subjects applicant to a reduction of any period of adjustment.

The IDS submitted July 23, 2003 was never considered as it failed to comply with the requirements of 37 CFR 1.97(e). In response to the notification that the IDS would not be considered, applicant submitted another IDS on April 26, 2004. As the period of reduction related to the submission of April 26, 2004 does not overlap with the period of reduction related to the submission on July 23, 2003, the submission of April 26, 2004 resulted in a further reduction of 40 days under 37 CFR 1.704(c)(10).

The adjustment of 597 days is further reduced an additional 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the English translation of German Patent No. DE 3717212 filed June 24, 2004. Applicant has advanced no argument as to why this reduction should be reconsidered, but has merely requested that this 120 day reduction be reinstated. Obviously, without any reasonable argument, this request cannot be considered as, again, submission of any amendment or paper after Notice of Allowance has been given or mailed will result in a reduction of any period of adjustment accorded under 37 CFR 1.702 and 1.703.

Accordingly, the period of adjustment of 597 days was properly reduced 280 days. Thus, the adjustment of 317 days as indicated in the patent is in fact correct.

Any request for reconsideration of this decision must be promptly filed within TWO MONTHS of the mail date indicated above. This period of time will be not extended under 37 CFR 1.136.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/20/2006

TO SPE OF : ART UNIT 1600 (1634)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,916,634
Attn: Frank Lu

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.

Ok to make dependency change to claim 23 as requested in C of C?

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:

RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER
1634
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Attn: Williams J. Bond, Esq.
3M Innovative Properties Company
Office of Intellectual Property Counsel
P. O. Box 33427
St. Paul, MN 55133-3427

COPY MAILED

JUL 3 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Byron M. Jackson, et al.	:	
Application No. 10/013,304	:	DECISION GRANTING
Filed: November 5, 2001	:	PETITION
Attorney Docket No. 57192US002	:	

This is a decision on the petition filed June 27, 2002, requesting that the above-identified application be accorded a filing date of November 5, 2001, rather than the presently accorded date of November 6, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on November 5, 2001. In support, the petition is accompanied by a copy of Express Mail receipt No. EL888271339US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of November 5, 2001.

In view of the above, the petition is **GRANTED**.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of November 5, 2001.** Thereafter, the application file will be forwarded to Technology Center 1700 for examination in due course.

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

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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

COPY

OIPE JC148
NOV 1 0 2003
PATENT & TRADEMARK OFFICE

RECEIVED
SEP 0 5 2003
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.

Paper No.

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED
SEP 0 2 2003
OFFICE OF PETITIONS
ON PETITION

In re Application of
David L. Nyseth et al
Application No. 10/013,305
Filed: November 13, 2001
Attorney Docket No. 2267.414US03

This is a decision on the petition, filed by facsimile transmission on August 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 3728 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

Notified

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Stephanie L. Seidman
Fish & Richardson P.C.
12390 El Camino Real
San Diego, CA 92130

COPY MAILED

NOV 28 2005

OFFICE OF PETITIONS

In re **Brugnara et al.** Application No. 10/013,308 Filing Date: December 7, 2001 Attorney Docket No. 13691-004001	: : : : :	RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to applicants' PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR 1.704(b) timely[1] filed on August 10, 2005 requesting that the Office adjust the PTA calculation at the time of the notice of allowance from a determination of zero (0) days to a determination of sixty-five (65) days.

Applicants' request for reconsideration of PTA is granted. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance from a determination of zero days to a determination of sixty-five (65) days

Applicants argue that the amount of PTA is inaccurate. Applicants do not dispute the three hundred and sixty-two (362) days of Office delay for the Office's failure to initially act upon the application within fourteen months of the filing of the application under 37 CFR 1.702(a)(1). Applicants also agree with three of the reductions assessed for applicant delays. Applicants agree that they had failed to reply on two occasions within three months of the mail date of a specific notice sent to applicants.[2] See 37 CFR 1.704(b). In addition, applicants agree

[1] Issue fee paid on August 10, 2005.

[2] Applicants replied to the non-final rejection mailed to applicants on February 4, 2004 on August 9, 2004, a ninety-seven (97) day delay. In addition, applicants responded to the final rejection of October 28, 2004 on April 28, 2005, a ninety (90) day delay.

that they filed a supplemental paper (IDS) on August 23, 2004, a reduction under 37 CFR 1.704(c)(8).[3] Applicants dispute the four hundred and four (404) day reduction under 37 CFR 1.704(b) for alleging responding to the notice to file missing parts by that specific period of time. Applicants assert that the Office withdraw the notice to file missing parts requirement of January 18, 2002 because of an error by the Office. Applicants assert that the Office mailed a notice of August 8, 2002 that was received in the Office on Feb. 12, 2003, a ninety-six day delay. In addition, the Office mailed a notice to file corrected application papers on March 24, 2003 that was responded to by applicants on May 27, 2003, a timely response. Accordingly, applicants assert that the correct amount of PTA is sixty-five days (362- (97+90+14+96)=65) days.

Applicants arguments are persuasive. A review of the file record reflects the analysis performed by applicants. Applicants delayed in responding to the OIPE notices by a period of ninety-six (96) days. The Office notes that the initial notice was sent in error and later removed.

After the mailing of this decision, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the application more than four months from the payment of the issue fee and all other requirements being satisfied will be added in the issue notification letter that is provided to applicants approximately three weeks prior to issuance of the application.

Applicants have provided the required $200.00 fee. No additional fees are required in the determination of this request.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

Kery Fries

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

cc: adjusted PTA calculation

[3] The reduction was for the period beginning on August 11, 2004 and ending on August 23, 2004, inclusive of both August 11 and August 23, 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

COPY MAILED

MAY 10 2006

OFFICE OF PETITIONS

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130

In re Application of
Brugnara et al.
Application No. 10/013,308
Patent No. 6,992,079
Filed: 12/7/2001

: DECISION GRANTING CERT. OF
:CORRECTION

This decision is in response to applicant's request for a certificate of correction filed on March 5, 2004 for the improper printing of zero days on the front of the patent. Applicants assert that they are entitled to one hundred and twenty-three (123) days of patent term adjustment as mentioned in the issue notification letter.

Applicants' letter requesting the certificate of correction is **GRANTED.** The Office will *sua sponte* issue a certificate of correction pursuant to 35 U.S.C. 254 and 37 CFR 1.322 reflecting a period of thirty-seven (37) days of PTA adjustment.

Applicants assert the Office erred in printing zero (0) days on the front of the patent.

Applicants are correct in their allegation that the Office failed to issue the patent with the specific amount of patent term adjustment that the Office advised applicants that they would receive

The Office wants to note on the record that had applicants been alleging that the substantive determination of PTA was not accurate, then the proper remedy would have been an application for patent term adjustment pursuant to 37 CFR 1.705(b), (c) or (d) whichever section was applicable. The Office will not allow an applicant to submit a certificate of correction as an alternative remedy for patent term adjustment if applicant failed to comply with requirements of 37 CFR 1.705.

After the mailing of this decision the Office will forward the application to the certificate of corrections branch for issuance of a certificate of correction reflecting this decision.

Since the Office erred in the improper printing of the correct amount of PTA, the Office will not assess any fees for the filing of the certificate of correction request.

Any questions regarding this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Deputy Commissioner for Patent Examination Policy, at 571-272-7757.

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

UNITED STATES 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.

AGENSYS C/O MORRISON &
FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED

JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Raitano et al.	:	
Application No. 10/013,312	:	LETTER REGARDING
Filed: December 7, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 511582006300	:	

This letter is in response to the "LETTER TO THE PATENT OFFICE" filed May 23, 2008, pursuant to applicants' duty of good faith and candor to the Office. Applicants disclose that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 304 days indicated on the determination of patent term adjustment may be longer than appropriate.

The request for review of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is TWO HUNDRED SIXTY-SEVEN (267) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

A review of the application record reveals that after having filed a response on December 5, 2007, on January 11, 2008, applicants submitted an Information Disclosure Statement (IDS). This IDS was not expressly requested by the examiner. This IDS did not include a §1.704(d) statement. Pursuant to 1.704(c)(8), a period of reduction of 37 days, counting the number of days beginning on the day after the date the initial reply was filed, December 6, 2007 and ending on the date that the IDS was filed, January 11, 2008, is being entered.

Any periods of reduction for further filing of IDSs in this application will be reflected in the revised determination of patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance). In addition, this revised determination 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).

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is TWO HUNDRED SIXTY-SEVEN (267) days.

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

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for issuance of the application.

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 adjusted PAIR calculation

Day : Monday
Date: 6/23/2008

PALM INTRANET

Time: 15:38:49

PTA Calculations for Application: 10/013312			
Application Filing Date:	12/07/2001	PTO Delay (PTO):	545
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	241
Post-Issue Petitions:	0	Total PTA (days):	267
PTO Delay Adjustment:	-37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
122	06/23/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		37	
104	02/26/2008	MAIL NOTICE OF ALLOWANCE			
103	02/16/2008	ISSUE REVISION COMPLETED			
102	02/16/2008	DOCUMENT VERIFICATION			
101	02/16/2008	EXAMINER'S AMENDMENT COMMUNICATION			
100	02/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
99	02/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
98	02/14/2008	NOTICE OF ALLOWABILITY			
87	01/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
82	01/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	12/14/2007	DATE FORWARDED TO EXAMINER			
80	12/05/2007	RESPONSE AFTER NON-FINAL ACTION			
79	10/16/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
78	03/08/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
77	09/07/2007	MAIL NON-FINAL REJECTION			
76	09/04/2007	NON-FINAL REJECTION			
75	06/21/2007	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
74	06/26/2007	DATE FORWARDED TO EXAMINER			
73	06/21/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
72	06/26/2007	DATE FORWARDED TO EXAMINER			
		REQUEST FOR CONTINUED EXAMINATION			

71	06/21/2007	(RCE)			
70	06/26/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
69	06/21/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	06/14/2007	MAIL ADVISORY ACTION (PTOL - 303)			
67	06/11/2007	ADVISORY ACTION (PTOL-303)			
66	05/11/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
65	05/17/2007	DATE FORWARDED TO EXAMINER			
64	05/11/2007	AMENDMENT AFTER FINAL REJECTION			
63	03/29/2007	MAIL FINAL REJECTION (PTOL - 326)			
62	03/26/2007	FINAL REJECTION			
61	02/16/2007	DATE FORWARDED TO EXAMINER			
60	02/02/2007	RESPONSE AFTER NON-FINAL ACTION		92	58
59	02/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	08/02/2006	MAIL NON-FINAL REJECTION			
57	07/31/2006	NON-FINAL REJECTION			
56	03/14/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	05/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	06/23/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	06/23/2006	REFERENCE CAPTURE ON IDS			
52.7	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		28	47
52	06/23/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51.7	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	03/14/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	05/30/2002	PRELIMINARY AMENDMENT			
49.7	05/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	05/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	06/06/2006	DATE FORWARDED TO EXAMINER			
47	05/26/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			

46	06/06/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
45	05/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	05/26/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	11/15/2005	NOTICE OF APPEAL FILED		88	36
42	11/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	11/03/2005	MAIL ADVISORY ACTION (PTOL - 303)			
40	10/31/2005	ADVISORY ACTION (PTOL-303)			
39	09/23/2005	DATE FORWARDED TO EXAMINER			
38	09/16/2005	AMENDMENT AFTER FINAL REJECTION			
37	09/16/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	05/19/2005	MAIL FINAL REJECTION (PTOL - 326)			
35	05/16/2005	FINAL REJECTION			
34	03/09/2005	DATE FORWARDED TO EXAMINER			
33	02/22/2005	RESPONSE AFTER NON-FINAL ACTION		3	31
32.7	01/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	01/06/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	11/19/2004	MAIL NON-FINAL REJECTION			
30	11/15/2004	NON-FINAL REJECTION			
29	09/21/2004	MISCELLANEOUS INCOMING LETTER			
28	09/02/2004	DATE FORWARDED TO EXAMINER			
27	08/26/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
26	08/26/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	08/23/2004	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
24	08/19/2004	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
23	08/05/2004	MAIL RESTRICTION REQUIREMENT	545		-1
22	08/03/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
21	07/13/2004	PRELIMINARY AMENDMENT			
20	07/13/2004	WORKFLOW INCOMING AMENDMENT IFW			
19.7	05/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	05/03/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

18	04/14/2004	CORRESPONDENCE ADDRESS CHANGE			
17	10/08/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	08/15/2003	CORRESPONDENCE ADDRESS CHANGE			
15	03/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
14	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
13	08/21/2002	APPLICATION DISPATCHED FROM OIPE			
12	08/14/2002	APPLICATION IS NOW COMPLETE			
11	05/30/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		30	4
10	05/30/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	05/30/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	05/30/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	05/30/2002	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
6	06/26/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	01/15/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
4	01/30/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	01/10/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	01/02/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/07/2001	INITIAL EXAM TEAM NN			

Search Another: Application# _____ Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

UNITED STATES 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

PETER I. LIPPMAN
ASHEN & LIPPMAN
4385 OCEAN VIEW BOULEVARD
MONTROSE, CA 91020

COPY MAILED

MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of
Farruggia et al.
Application No. 10/013,320
Filed: December 7, 2001
Attorney Docket No. xAA-13

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed January 2, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 3, 2001. A Notice of Abandonment was mailed on January 28, 2004.

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

Petitioner submitted $650.00 towards payment of the petition fee. However, effective October 1, 2003, the petition fee increased to $665.00. Accordingly, an additional $15.00 has been charged to petitioner's deposit account as authorized.

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

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

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

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

Monica Dudek
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

COPY MAILED

SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of
Mikhail Voldman, Dan Budinger, Ali Akgun,
John G. Fijolek, Mark O. Vogel and Kris Kelkar
Application No. 10/013,321
Filed: October 30, 2001
Attorney Docket No. 00-1263

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR §1.47(b), filed June 18, 2002. This petition will be treated under 37 CFR §1.47(a).[1]

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 October 30, 2001, without an executed oath or declaration. Accordingly, on January 18, 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 March 18, 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 three (3) month extension of time was also submitted. In support of the petition, applicants submitted the declaration of Monika Dudek, patent agent, assignment papers and correspondence sent to the inventors.

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

---

[1] Where at least one inventor has signed an oath or declaration it is appropriate for the petition to be treated under 37 CFR §1.47 (a). A petition filed under 37 CFR §1.47(b) is appropriate where all inventors have either refused to execute the oath or declaration, or cannot be located.

acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The first page of the Declaration does not list all joint inventors and the Declaration does not include page numbers --i.e. 1 of 2; 2 of 2. Instead the Declaration submitted with the present petition identifies each inventor individually on a separate sheet paper without reference to the other joint inventors. The Declaration should set forth all of the joint inventors on the same page to ensure that each named inventor is aware of the other named inventors of the subject matter. For this reason, an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required. See MPEP 409.03(a).

In addition, the declaration was signed on behalf of the non-signing inventor by Mark Michael, an officer of a party of interest. Rule 47(a) requires the signing joint inventors to sign the declaration on behalf of themselves and on behalf of the non-signing inventor.

Another declaration in compliance, signed by the joint inventors on behalf of themselves and on the behalf of Dan Budinger 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
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.

E. Shirene Willis 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. 8

COPY MAILED

JAN 06 2003

OFFICE OF PETITIONS

Thomas Wetterman
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

In re Application of
Mikhail Voldman, Dan Budinger, Ali Akgun,
John G. Fijolek, Mark O. Vogel and Kris Kelkar
Application No. 10/013,321
Filed: October 30, 2001
Attorney Docket No. 00-1263

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 19, 2002.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Follow-up correspondence was mailed via Federal Express. Petitioner has provided evidence which confirms delivery of the correspondence. The non-signing inventor's failure to respond to the application papers 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.

The $130.00 fee submitted with the renewed petition is being refunded to deposit account no. 13-2490. Petitioner submitted a timely renewed petition, thus no additional fees are required.

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

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TIMOTHY H. VAN DYKE
VAN DYKE & ASSOCIATES, P.A.
1630 HILLCREST STREET
ORLANDO FL 32803

COPY MAILED

JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Richard Ferguson, Kevin C. Carter :
(Dec'd) & Diane Carter (Legal Rep.) : DECISION REFUSING
Application No. 10/013,328 : STATUS UNDER
Filed: November 5, 2001 : 37 CFR 1.47(a)
For: MATERIALS AND METHODS FOR :
IMPROVED BONE TENDON BONE
TRANSPLANTATION

This is in response to the petition under 37 CFR 1.47(a), filed March 11, 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 legal representative. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

As to item (1), rule 47 applicant must demonstrate with documented evidence that the legal representative of deceased inventor Kevin C. Carter refuses to join in the application after having been presented with the application papers (specification, claims, drawings and oath or declaration). There is no indication in the present case whether the legal representative was presented with a copy of the complete application papers. If the legal representative was not presented with a copy of the application papers, then the legal representative could not attest that he/she has "reviewed and understands the application papers" and rightfully refused to execute the documents which he/she was requested to sign. 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 to the legal representative. Did the legal representative receive the application papers? Unless petitioner can show that a copy of the application papers was presented to the legal representative

then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to the legal representative last known address, return receipt requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. Further, rule 47 applicant must state whether Diane Carter is the only legal representative that could sign the declaration on behalf of deceased inventor Kevin Carter. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return, receipt, cover letter of instructions, telegram, etc. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made**. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's (or legal representative's) conduct constitutes a refusal, all facts upon which that 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 must be submitted.

Whenever an omitted inventor (or legal representative) gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

As to item (2), when an application is filed on behalf of a legal representative, the oath or declaration for the patent application must be signed by the available joint inventors on behalf of the legal representative. The name, residence, post office address and citizenship of the legal representative need to be stated in the declaration in addition to that of the deceased inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the available joint inventor on behalf of himself and the legal representative is REQUIRED. See MPEP 409.03(a).

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

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

By mail: 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 22202

Telephone inquiries related to this decision should be directed to Karen Creasy at (703) 305-8859.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petition
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. 12

MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 WEST MADISON STREET
CHICAGO, IL 60661

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Kevin C. Carter, (deceased) et al :
Application No. 10/013,328 :DECISION GRANTING STATUS
Filed: November 5, 2001 :UNDER 37 CFR 1.47(a)
Attorney Docket No. 1915/13921US04 :

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 16, 2002.

The petition is granted.

Petitioner has shown that the legal representative for joint inventor Kevin C. Carter has refused to join in the filing of the above-identified application.

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

Telephone inquiries regarding this decision should be directed to Karen Creasy at (703) 305-8859.

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

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. 3

COPY MAILED

DEC 13 2002

OFFICE OF PETITIONS

Gordon D. Coplein Esq.
1046 Oakpointe Place
Dunwoody GA 30338-2600

In re Application of:
Banko, *et al.*
Application No. 10/013,397
Filed: December 11, 2001
Attorney Docket No. SURG-9

DECISION GRANTING PETITION IN PART

This is a decision on the January 21, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of December 10, 2001, rather than the presently accorded filing date of December 13, 2001.

Petitioner alleges that the application was deposited in Express Mail service on December 10, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EK406072151US (the same Express Mail number found on the original application papers located in the official file). As noted in the petition, the date-in on this receipt is unclear. However, the USPS.com track & confirm database shows that this application was in USPS custody as early as December 11, 2001.

Accordingly, it is clear that the currently accorded filing date of December 13, 2001 is in error. However, notwithstanding Petitioner's offer to "take a polygraph", there is insufficient evidence at this time to accord a filing date of December 10, 2001.

In view of the above, to the extent that Petitioner requests a filing date of December 10, 2001, *this petition is* ***dismissed***. However, as the currently accorded filing date of December 13, 2001 is clearly erroneous, *this petition is* ***granted*** to the extent that the evidence shows a deposit date at least as early as December 11, 2001.

This application will be returned to Initial Patent Examination Division for correction of the filing date to December 11, 2001.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.10(c)".

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

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

CHRISTENSEN, O'CONNOR,
JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE WA 98101-2347

COPY MAILED

APR 10 2007

OFFICE OF PETITIONS

In re Application of :
Alexander et al. : DECISION ON
Application No. 10/013,408 : PETITION
Filed: December 6, 2001 :
Attorney Docket No. VIGL118277:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b), filed March 9, 2007.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed March 31, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the third month, was filed on October 4, 2006 (certificate of mailing dated Monday, October 2, 2006). However, the reply was determined by the examiner to not place the application in condition for allowance (Advisory Action mailed October 23, 2006). No proper reply having been received and no further extension of time obtained the application became abandoned effective October 1, 2006. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of a request to consider the amendment previously submitted October 4, 2006); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 2154 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed March 9, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 16 2008

OFFICE OF PETITIONS

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

In re Application of :
Wasserman : DECISION ON PETITION
Application No.: 10/013,422 :
Filed: December 10, 2001 :
Atty. Dkt. No: 9621 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 16, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

The Notice of Abandonment mailed March 28, 2008 indicates that the application became abandoned as a failure to respond to the Notice of Non-Compliant (Notice) mailed November 20, 2007.

Petitioner argues non-receipt of the Notice.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. 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 instant petition does not establish non-receipt of the Notice in compliance with the procedures set forth at MPEP 711.03(c).

Any renewed petition must establish non-receipt of the Notice as set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply. *See*, enclosed.

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

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

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

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

By facsimile: (571) 273-8300

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 19 2008

OFFICE OF PETITIONS

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

In re Application of :
Wasserman : DECISION ON PETITION
Application No. 10/013,422 :
Filed: December 10, 2001 :
Atty. Dkt. No: 9621 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 19, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment mailed March 28, 2008 indicates that the application became abandoned as a failure to respond to the Notice of Non-Compliant (Notice) mailed November 20, 2007.

Petitioner argues non-receipt of the Notice.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from

the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. 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 petition and supporting documentation have been carefully reviewed and found in compliance with the above-stated requirements.

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

This application is being referred to the Technology Center Art Unit 3687 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/013,434	12/10/2001	Brian Jay Wasserman	9675	3479

26890 7590 09/08/2008
JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG, OH 45342

EXAMINER
GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
09/08/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

SEP 05 2008

TECHNOLOGY CENTER 3600

JAMES M. STOVER
TERADATA CORPORATION
2835 MIAMI VILLAGE DRIVE
MIAMISBURG OH 45342

In re Application of:	:	
Brian J. Wasserman	:	DECISION ON PETITION
Application No.: 10/013,434	:	UNDER 37 CFR §1.181
Filed: December 10, 2001	:	
Attorney Docket No.: 9675	:	
For: Driver Amount and Count Selection	:	
Processing for Financial Processing in a	:	
Relational Database Management System	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed January 26, 2007 requesting that the amendment under 37 CFR 1.116 filed November 27, 2006 be entered.

The petition is **Dismissed as Moot.**

The record reflects that on September 23, 2005 a Requirement for Election/Restriction was mailed. On December 22, 2005 applicant responded by electing group I (Claims 1-14) as to be examined by the Office. On April 6, 2006 a non-final Office action was mailed rejecting claims 1-14 under 35 U.S.C. § 103. On July 6, 2006 applicant filed an amendment amending the independent claim 1. On September 26, 2006 a final Office action was mailed rejecting claims 1-14 under 35 U.S.C. § 103 and rejecting claim 1 under 35 U.S.C. § 112 2nd paragraph as the words "similar" and "should" render the claim indefinite. On November 27, 2006 applicant filed an amendment under 37 C.F.R. 1.116 amending the independent claim1. On December 20, 2006 an Advisory Action was mailed denying entry of the amendment filed November 27, 2006.

In the petition filed January 26, 2007 requesting entry of the amendment under 37 CFR 1.116 filed November 27, 2006, applicant argues that the refusal to enter the amendment is erroneous, because: the amendment of November 27, 2006 does not raise any new issues since the proposed claim changes were intended to present the rejected claim in better form for consideration on appeal. Spherically, Applicant's attorney amended the claim in order to overcome the rejection of claim 1 under 35 U.S.C. § 112 2nd Paragraph, and thus eliminate this rejection from the appeal.

MPEP 714.12 sets forth that once a final rejection that is not premature has been entered in an application; applicant or patent owner no longer has any right to unrestricted further prosecution. This does not mean that no further amendment or argument will be considered. Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(b). Ordinarily, amendments filed after the final action are not entered unless approved by the examiner. See MPEP 706.07(f), 714.13 and 1207. MPEP 714.13 (III) sets forth that the refusal to enter the proposed amendment should not be arbitrary. The proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or where the issues on appeal are simplified. Ordinarily, the specific deficiencies of the amendment need not be discussed. However, if the proposed amendment raises the issue of new matter, the examiner should identify the subject matter that would constitute new matter. If the proposed amendment presents a new issue requiring further consideration and/or search, the examiner should provide an explanation as to the reasons why the proposed amendment raises new issue that would require further reconsideration and/or search. The reasons for non-entry should be concisely expressed. For example: (A) the claims, if amended as proposed, would not avoid any of the rejections set forth in the last Office action, and thus the amendment would not place the case in condition for allowance or in better condition for appeal.

With regard to applicant's argument that the refusal to enter the amendment is erroneous because the examiner has failed to reply to applicant's assertion that the amendments has been only made to present the rejected claim in better form for consideration on appeal. However, a closer look at the amendment made to the claims and replacement of the phrase "should be" with the word "are" makes a clear distinction in the interpretation of the claim. Therefore, non-entry of the amendment dated November 27, 2006 is correct.

However, further review of the application shows that prosecution was re-opened on August 15, 2007 and a non-final Action was mailed. It is clear that the issue of the petition in hand was addressed by the re-opening of the prosecution and the amendment to the claims has been entered. Subsequent to the non-final action dated August 15, 2007 applicant filed an Appeal Brief on February 29, 2008. And the examiner issued a Notice of Allowability on July 31, 2008.

For the foregoing reasons the petition to enter the amendment after the final submitted on November 27, 2006 is dismissed as moot.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

Summary: The petition is **Dismissed as Moot**

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

TR

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)
6454631	2002-09-24	10/013,435	2001-12-08	

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	/MIKE BUZZETTI/	Date (YYYY-MM-DD)	2008-02-22
Name	MIKE BUZZETTI		

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. 6454631
Issue Date: September 24,2002
Application No. 10013435
Filed: December 8,2001
Attorney Docket No. 105026

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

This is a decision on the electronic petition, filed February 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APR 22 2004

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

In re Application of	:
Manfred Melzig et al	:
Serial No.: 10/013,518	: PETITION DECISION
Filed: December 13, 2001	:
Attorney Docket No.: 271MB/48591	:

This is in response to the petition under 37 CFR 1.144, filed March 2, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 13, 2001, as a Continuation of SN 09/485,921 and contained claims 9-16, claims 1-8 having been canceled by concurrently filed preliminary amendment. In a first Office action, mailed March 25, 2003, the examiner set forth a restriction requirement dividing the claims into five groups, as follows:

Group I, claims 9-16, drawn to a compound of formula I where B and B' are phenyl or naphthyl and X is 3 unsaturated carbon atoms;

Group II, claims 9-16, drawn to a compound of formula I where B and B' are furanyl or benzofuranyl and X is 3 unsaturated carbon atoms;

Group III - claims 9-13, 15-16, drawn to a compound of formula I where B and B' are thienyl or benzothienyl and X is 3 unsaturated carbon atoms;

Group IV - claims 9-13, 15-16, drawn to a compound of formula I where B and B' are pyridyl and X is 3 unsaturated carbon atoms; and

GroupV – claim 14, drawn to a compound of formula III where B and B' are pyridyl and X is 3 unsaturated carbon atoms.

The examiner reasoned that the fields of search are not coextensive and the compounds have achieved a separate status in the art. The examiner also required an election of species from claims 9-16.

Applicant replied on May 23, 2003, electing Group I with traverse arguing that the restriction was improper and incomplete, especially noting that the definition of X is "a 2-4 member chain

having at least **one heteroatom** and being saturated or unsaturated", and that the requirement as written is outside this definition. Applicants also argued that each of the five groups are classified in the same class and subclass and that the search therefor must be coextensive or generally coextensive. Further noted was that the requirement did not comply with the decision of In re Weber 198 USPQ 328.

The examiner mailed a new Office action to applicant on June 17, 2003, acknowledging applicants election of Group I and a particular species and responded to the traversal. In view of applicants' remarks, the restriction requirement was modified, as follows:

Group I, Claims 9-16, drawn to a compound of formula I where B and B' are phenyl or naphthyl and B' is substituted with morpholino and X is two unsaturated carbon atoms and one hetero atom of O or S;

Group II, Claims 9-16, drawn to a compound of formula I where B is unsubstituted pyridyl, B' is phenyl or naphthyl and X is two unsaturated carbon atoms and one hetero atom of O or S; and

Group III, Claims 9-16, drawn to a compound of formula I where B is unsubstituted phenyl or naphthyl and B' is furanyl and X is two unsaturated carbon atoms and one hetero atom of O or S.

The examiner then set forth rejections under 35 U.S.C. 112, first and second paragraphs, for lack of enablement and indefiniteness.

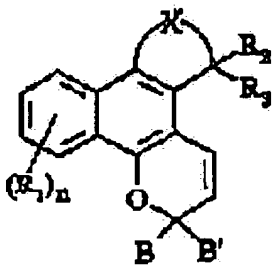
Applicants replied on September 17, 2003, amending claim 9. The rejections were addressed appropriately. The revised restriction requirement was again traversed vigorously for generally the same reasons as in the previous reply.

The examiner mailed a Final Office action to applicants on December 2, 2003. The examiner maintained the rejection under 35 U.S.C. 112, first paragraph, for the reasons as previously set forth. The examiner also dismissed the traversal of the restriction requirement with the same reasons as previously. The requirement was also made Final.

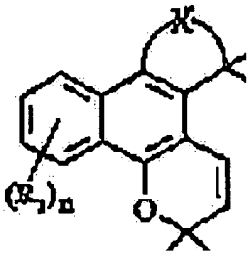
Applicants then filed this petition and a Notice of Appeal on March 2, 2004.

DISCUSSION

Applicants argue that both of the restriction requirements are improper for several reasons, and specifically the second one (1) fails to follow classification rules, (2) fails to follow procedures set forth in the M.P.E.P. for Markush claims and election of species requirements, and (3) fails to comply with established court decisions, such as In re Weber.



(I)



Applicants' formula I is shown above. The corresponding core structure is shown to the right of formula I. The core structure is invariant except with respect to X which is defined as "an unsaturated or saturated 2-4 member chain containing at least one carbon atom and a hetero atom selected from O, S and NR_4". Clearly the core structure is a naphtho-pyran compound having an additional fused ring (defined by the X variable) attached in a specified position. In this instance if X is an N containing chain forming a fused ring structure it would control classification. If X does not contain an N, then the O or S controls classification. In either event, the naphtho-pyran structure would mandate placement of the compounds in class 549, either as an original or a cross reference. Whether B or B' is carbocyclic or heterocyclic or together form a spiro carbocyclic ring(s) would not control the classification of the subject matter and would therefore not provide basis for restriction. Only the variation in X would provide a basis for restriction. The examiner's initial classification of all restricted groups in the same class and subclass suggests that the search for all of the compounds would be generally coextensive and based on the naphtho-pyran ring structure. The examiner has not sustained a burden based on different classification and/or search on this basis.

Applicants argue that the examiner has failed to follow the guidelines in In re Weber which states that applicants have a statutory right to claim what **they** regard as their invention, not what the examiner determines their invention to be based on what the examiner is willing to search and/or examine. In this instance applicants have presented a large core structure with little variation (only X varies) which provides the utility of the compounds (according to applicants). Thus applicants meet the requirements of In re Weber for prohibiting restriction between their compounds as a whole. (This does not prevent the examiner from making an election of species requirement and following the guidelines of M.P.E.P. 803.02.) The examiner here has limited X to a 3 member chain (not 2 or 4 member) and only one heteroatom in the second restriction requirement (a four member chain could have up to 3 heteroatoms). This excludes a large number of compounds encompassed by the claims which possess the same property or utility and have a large portion of the structure in common. (Whether support for all claimed members of the group exists is immaterial to restriction practice.) Both restriction requirements, the first not encompassing any compound within the scope of the claims, and the second encompassing only a limited number of compounds of the claims are improper and are in fact prohibited by In re Weber.

In view of the above, both restriction requirements are withdrawn. The election of species requirement with which applicants do not disagree is valid and remains in effect and examination will proceed on the basis of the species previously elected.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner for further consideration and prosecution in accordance with an election of species requirement under M.P.E.P. 803.02.

In view of this decision the last Office action is withdrawn and the requirement for reply thereto vacated. The Notice of Appeal filed March 2, 2004 is noted, however is held in

abeyance until all issues have been fully developed. Alternatively applicants may request withdrawal of the Notice of Appeal and refund of the Appeal fee.

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

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

COPY MAILED

SEP 12 2002

OFFICE OF PETITIONS

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

In re Application of	:	
Evanicky, et al.	:	
Application No. 10/013,576	:	DECISION GRANTING STATUS
Filed: December 10, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 062986.0228	:	
For: COMPACT FLAT PANEL COLOR	:	
CALIBRATION SYSTEM	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 30, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Joel Ingulsrud has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PARSONS HSUE & DE RUNTZ LLP
655 MONTGOMERY STREET
SUITE 1800
SAN FRANCISCO CA 94111

COPY MAILED

MAY 2 6 2004

OFFICE OF PETITIONS

In re Application of
Daniel C. Guterman et al
Application No. 10/013,592
Filed: November 13, 2001
Attorney Docket No. M-10249-14P US

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/910,947, filed August 7, 1997.

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 2818 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 08/910,947, filed August 7, 1997.

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

Paper No. 14

JUN - 4 2004

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

In re Application of: Mark J. Rigali et al. Serial No.: 10/013,601 Filed: December 4, 2001 Attorney Docket No.: 03248.00043	: : : : :	*SUA SPONTE* *DECISION WITHDRAWING* *HOLDING OF ABANDONMENT*

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on September 30, 2003. A Notice of Abandonment was mailed on May 4, 2004.

A review of the written record indicates that the Office action mailed on September 30, 2003 was remailed on December 4, 2003 setting a new three-month shortened statutory period for reply. The review also reveals that an amendment was filed on May 4, 2004 in response to the Office action mailed on December 4, 2003, along with a request for a two-month extension of time, but neither was matched with the application file prior to the mailing of the Notice of Abandonment. The examiner held the application to be abandoned based on applicant's failure to timely reply to the September 30, 2003 Office action.

The amendment filed May 4, 2004 was a timely response to the December 4, 2003 Office action, therefore the abandonment of the application was premature. The application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to 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

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

RONALD CRAIG FISH
FALK & FISH
POST OFFICE BOX 2258
MORGAN HILL, CA 95038

COPY MAILED

MAR - 4 2002

OFFICE OF PETITIONS

In re Application of :
Matti Halme :
Application No. 10/013,613 :
Filed: October 19, 2001 :
Attorney Docket No. BER-023 :

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 the Initial Patent Examination Unit.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WEYERHAEUSER COMPANY
INTELLECTUAL PROPERTY DEPT.,
CH 1J27
P.O. BOX 9777
FEDERAL WAY WA 98063

COPY MAILED

AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:
Stanley L. Floyd et al	:
Application No. 10/013,644	: DECISION GRANTING PETITION
Filed: November 13, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 24697	:

This is a decision on the petition under 37 CFR 1.137(b), filed June 15, 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 July 15, 2003, is accepted as having been unintentionally delayed.

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

The application is being forwarded to Technology Center AU 2857.

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
DW Jan-07

McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON MA 01720

COPY MAILED

JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Barbir et al.	:	DECISION ON PETITION TO
Application No. 10/013,677	:	WITHDRAW HOLDING OF
Filed: 13 December, 2001	:	ABANDONMENT
Attorney Docket No. 123-011	:	

This is a decision on the petition filed on 1 November, 2006, 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 non-final Office action mailed on 30 March, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 6 October, 2006.

Petitioners assert that the non-final Office action mailed on 30 March, 2006, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final 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 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 non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner's counsel, registered patent attorney Holmes W. Anderson, asserts that the attorney's docket printout shows that no docket entry was made for the outstanding Office action because it was never received. A copy of the docket report where the Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center's Technical Support Staff for remailing of the non-final Office action. 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

COPY MAILED

NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Robert M. Blankenship, et al. :
Application No. 10/013,696 :
Filed: December 13, 2001 :
Attorney Docket No. A01168A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 21, 2004.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/28/04

TO SPE OF : ART UNIT 1724

10/013711

SUBJECT : Request for Certificate of Correction on Patent No.: 6730144

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Lamonte Newsome

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments: OK.

DIANE SMITH
SUPERVISORY PATENT EXAMINER

SPE

1724
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

DIANE SMITH
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

BIRCH, STEWART, KOLASCH &
BIRCH, LLP
P.O. Box 747
Falls Church, Virginia 22040-0747

MAILED

JUN 19 2007

Technology Center 2100

In re Application of:
Keiji FUKUMOTO
Application No. 10/013,714
Filed: December 13, 2001
For: METHOD OF CONTROLLING ACCESS TO DATABASE, DATABASE DEVICE, METHOD OF CONTROLLING PROCESSING DEVICE, PROGRAM, AND STOARGE MEDIUM FOR THE PROGRAM

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a response to the decision by the Board of Patent Appeals and Interference rendered on December 8, 2006. A Notice of Abandonment was mailed on May 14, 2007.

A review of the file record indicates that the Request for Reconsideration of the decision by the Board of Patent Appeals and Interferences was received on February 7, 2007. The Office regrets any inconvenience caused by this error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the Board to render a decision on the Request for Reconsideration.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH, STEWART, KOLASCH &
BIRCH, LLP
P.O. Box 747
Falls Church, Virginia 22040-0747

MAILED

JUN 19 2007

Technology Center 2100

In re Application of:
Keiji FUKUMOTO
Application No. 10/013,714
Filed: December 13, 2001
For: METHOD OF CONTROLLING ACCESS TO DATABASE, DATABASE DEVICE, METHOD OF CONTROLLING PROCESSING DEVICE, PROGRAM, AND STOARGE MEDIUM FOR THE PROGRAM

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a response to the decision by the Board of Patent Appeals and Interference rendered on December 8, 2006. A Notice of Abandonment was mailed on May 14, 2007.

A review of the file record indicates that the Request for Reconsideration of the decision by the Board of Patent Appeals and Interferences was received on February 7, 2007. The Office regrets any inconvenience caused by this error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the Board to render a decision on the Request for Reconsideration.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MCGUIREWOODS LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN, VA 22102

COPY MAILED

APR 0 2 2002

OFFICE OF PETITIONS

In re Application of :
J. Vincent Edwards et al :
Application No. 10/013,717 : NOTICE
Filed: December 13, 2001 :
Attorney Docket No. 06940001BA :

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 3761.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 09-07

Paper No: __

COPY MAILED

SEP 1 0 2007

OFFICE OF PETITIONS

MICHAEL A. HAWES
BAKER BOTTS L.L.P.
ONE SHELL PLAZA
910 LOUISIANA STREET
HOUSTON TX 77002-4995

In re Application of	:	
Horowitz, et al	:	DECISION
Application No.: 10/013,743	:	
Filing Date: 13 November, 2001	:	
Attorney Docket No. 069855.0102	:	

This is a decision on the petition filed on 26 January, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181, alternatively to revive the application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay, or 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

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

---

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 1 August, 2006, with reply due under a non-extendable deadline on or before 1 November, 2006;
- the application went abandoned by operation of law after midnight on 1 November, 2006;
- the Office mailed the Notice of Abandonment on 29 November, 2006;
- on 26 January, 2007, Petitioner filed the instant petition instant petition with, *inter alia*, a reply in the form of payment of fees due, an averment that he did not receive the Notice of Allowance/Allowability and Fees Due, and made the statements and showings required (see the Manual of Patent Examining Procedure provisions discussed below) with documentation in support thereof included.

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

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

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are

STATUTES, REGULATIONS AND ANALYSIS

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

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

---

believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

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

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

> **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

---

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

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

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

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

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

> is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

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

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

As to the Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that the matter is moot.

As to the Allegations
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 the matter is moot.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 29 November, 2006, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(a) is **dismissed as moot** and the petition under 37 C.F.R. §1.137(b) is **dismissed as moot** and the petition fees were not charged.

The instant application is released to Publications Branch to be processed into a patent in due course.

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

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

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 18

Woodcock Washburn LLP
46th Floor
One Liberty Place
Philadelphia PA 19103

COPY MAILED

APR 1 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Richard L.Black, et al. :
Application No. 10/013,746 :
Filed: December 10, 2001 :
Attorney Docket No. LUTR-0123 :

This is a decision on the petition, filed April 12, 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 February 23, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2821 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).

OIPE JC26 MAR 1 2 2004 PATENT & TRADEMARK OFFICE

postage

1704

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/013,749
Filing Date	November 13,2001
First Named Inventor	BROWN, Fred, et al.
Art Unit	1764
Examiner Name	William H. Beisner
Attorney Docket Number	24841-P001US

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

AUG 30 2004

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

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

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number [ ]

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

The reasons for this request are: The Petitioner's client has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time.

CORRESPONDENCE ADDRESS

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

[ ] Customer Number: [ ]

OR

[x] Firm *or* Individual Name	Alan Warren				
Address	1330 Lake Robbins Drive				
Address	Suite 220				
City	The Woodlands	State	Texas	Zip	77380
Country	US				
Telephone	281-367-7500			Fax	281-367-7529

Name	Robert C. Shaddox		
Signature	Robert C. Shaddox	Registration No.	34,011
Date	3/8/04	Telephone No.	713-650-2764

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

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

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

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)
6608430	2003-08-19	10/013,753	2001-12-07	

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/Jim Schaus/	Date (YYYY-MM-DD)	2009-02-20
Name	Jim Schaus		

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. 6608430
Issue Date: August 19,2003
Application No. 10013753
Filed: December 7,2001
Attorney Docket No. 36811-1

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

This is a decision on the electronic petition, filed February 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 20,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

FEB 02 2004

OFFICE OF PETITIONS

In re Application of
David R. Porter et al
Application No. 10/013,758
Filed: December 10, 2001
Attorney Docket No. 31013

DECISION ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.137(a), filed January 21, 2004, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

This application was held abandoned for failure to timely submit substitute drawings in compliance with 37 CFR 1.84 as required by the Notice to File Corrected Application Papers, Filing Date Granted (hereafter Notice), mailed January 28, 2002, which set a two month extendible period for reply. A Notice of Abandonment was mailed on January 14, 2004.

Petitioner states that a reply to the Notice was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 26, 2002 of six (6) sheets of substitute drawings.

The file record contains a transmittal letter[1] entitled "Submission of Formal Drawings" and four (4) sheets of drawings containing Figures 1, 2, 3, 4, 8, 9, 10, 11, 18, 19, 20, 21 and 22. However, drawing Figures 5, 6, 7, 12, 13, 14, 15, 16, and 17 are missing. Accordingly, two (2) of the six (6) sheets of

[1] The transmittal letter bears a certificate of mailing date of March 12, 2002, which would have rendered the reply as having been timely filed.

drawings acknowledged as having been received in the USPTO on March 26, 2002 are missing and cannot be located.

However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that all the drawing figures were timely received in the USPTO but lost after receipt thereof.

However, as noted above, two (2) sheets of drawings are still missing. Therefore, upon receipt of the missing drawing pages, the holding of abandonment in this application will be withdrawn.

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

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

By hand:[2] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: [3] (703) 872-6906
ATTN: Office of Petitions

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

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

---

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

[3] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

31013

Loc 4100 DAC

PATENT
332-2510

OIPE JC42
FEB 0 9 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
FEB 1 1 2004
OFFICE OF PETITIONS

#6
R181
Pet

Applicant	:	David Porter, et al.
Serial No.	:	10/013,758
Filed	:	12/10/2001
For	:	VISUAL ALIGNMENT OF MULTIPLE REFLECTOR COLCOLLIMATION SYSTEM
Group Art Unit	:	2839
Examiner	:	

919 Third Avenue
New York, NY 10022-3852

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
MAIL STOP PETITION
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 6, 2004

Gregor N. Neff - Reg. No. 20,596
Name of Applicant, Assignee or Registered Representative

Signature

February 6, 2004
Date of Signature

REPLY TO DECISION ON PETITION UNDER 37 CFR 1.181

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

Sir:

In the Decision On Petition Under 376 CFR 1.181 (Paper No. 5) mailed February 2, 2004 (copy attached), it was ruled that the six sheets of drawings sent by Applicants had been timely received by the United States Patent and Trademark Office but that two of those sheets were lost after their receipt, and

KL3:2318850.1

that, upon Applicants' submission of the two missing sheets, the holding of abandonment in this application would be withdrawing.

Accordingly, Applicants herewith resubmit six (6) sheets of formal drawings which include the two missing sheets.

Therefore, Applicants respectfully request that the abandonment of this application be withdrawn.

Respectfully submitted,

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attorneys for Applicant(s)

By: _____
Gregor N. Neff
Registration No. 20,596

Enclosure
...Photocopy of Decision on Petition
Drawings - 6 Sheets

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 0 9 2004
JC42
PATENT & TRADEMARK OFFICE

RECEIVED
FEB 1 1 2004
OFFICE OF PETITIONS

Paper No. 5

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED
FEB 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
David R. Porter et al	:	
Application No. 10/013,758	:	DECISION ON PETITION
Filed: December 10, 2001	:	UNDER 37 CFR 1.181
Attorney Docket No. 31013	:	

This is a decision on the petition under 37 CFR 1.137(a), filed January 21, 2004, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

This application was held abandoned for failure to timely submit substitute drawings in compliance with 37 CFR 1.84 as required by the Notice to File Corrected Application Papers, Filing Date Granted (hereafter Notice), mailed January 28, 2002, which set a two month extendible period for reply. A Notice of Abandonment was mailed on January 14, 2004.

Petitioner states that a reply to the Notice was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 26, 2002 of six (6) sheets of substitute drawings.

The file record contains a transmittal letter[1] entitled "Submission of Formal Drawings" and four (4) sheets of drawings containing Figures 1, 2, 3, 4, 8, 9, 10, 11, 18, 19, 20, 21 and 22. However, drawing Figures 5, 6, 7, 12, 13, 14, 15, 16, and 17 are missing. Accordingly, two (2) of the six (6) sheets of

[1] The transmittal letter bears a certificate of mailing date of March 12, 2002, which would have rendered the reply as having been timely filed.

OIPE JC42
FEB 0 9 2004
PATENT & TRADEMARK OFFICE

RECEIVED
FEB 1 1 2004
OFFICE OF PETITIONS

drawings acknowledged as having been received in the USPTO on March 26, 2002 are missing and cannot be located.

However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that all the drawing figures were timely received in the USPTO but lost after receipt thereof.

However, as noted above, two (2) sheets of drawings are still missing. Therefore, upon receipt of the missing drawing pages, the holding of abandonment in this application will be withdrawn.

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

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

By hand:[2] 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: [3] (703) 872-6906
ATTN: Office of Petitions

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

Frances Hicks

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

---

[2] Effective December 1, 2003, the Office of Petitions can no longer directly receive hand-carried correspondence. The centralized location for hand-carried correspondence is the Customer Window now located at the address given.

[3] Effective December 1, 2003, the Office of Petitions can no longer directly receive facsimile transmissions of correspondence.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
919 THIRD AVENUE
NEW YORK, NY 10022

COPY MAILED

MAR 19 2004

OFFICE OF PETITIONS

In re Application of	:
David R. Porter et al	:
Application No. 10/013,758	: DECISION GRANTING PETITION
Filed: December 10, 2001	: UNDER 37 CFR 1.181
Attorney Docket No. 332-2510	:

This is communication received February 9, 2004, which is being treated as a renewed petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is granted.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

COPY MAILED

MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Docherty, John
Application No. 10/013,760
Filed: December 11, 2001
Attorney Docket No. 25080/04021

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 9, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 10, 2003. A Notice of Abandonment was mailed on January 13, 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 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

BEST AVAILABLE 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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED

JUL 19 2007

OFFICE OF PETITIONS

In re Application	:	
Frank Neubert et al.	:	
Application No. 10/013,767	:	DECISION ON PETITION
Filed: December 11, 2001	:	
Attorney Docket No. P/2764-5	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2007 to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 28, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 29, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1500.00, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received March 30, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

FEB 24 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
James Michael Odom et al. :
Application No. 10/013,776 :
Filed: December 7, 2001 :
For: METHOD FOR COMPUTERIZED WAGERING

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 29, 2003 to make the above-identified application special. The delay in acting on this petition is regrettable.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 29, 2003 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, Information Disclosure Statements were filed December 7, 2001, September 18, 2002 and April 21, 2003.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/mjz: 2/19/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-07

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

COPY MAILED

JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Donovan et al.	:	
Application No. 10/013777	:	ON PETITION
Filed: 11 December, 2001	:	
Atty Docket No. RIC99056C1	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EVIDENCE THAT A REPLY WAS TIMELY FILED," which is treated as a petition under 37 CFR 1.181, filed on 7 November, 2006.

This application became abandoned on 10 November, 2005, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on 9 September, 2005, which set a two (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. On 22 August, 2006, a Notice of Abandonment was mailed.

Petitioners assert that a response (amendment) was filed on 22 August, 2005, and that an Appeal Brief was timely filed on 9 November, 2005 (certificate of mailing date 8 November, 2005). Petitioner states that a copy of the Certificate of Mailing and the return receipt postcard showing receipt of the Appeal Brief in the Office is enclosed with the petition.

With regard to the amendment after final rejection filed on 22 August, 2005, the showing of record is that an Advisory Action Before the Filing of an Appeal Brief was mailed on 2 September, 2005, stating that the reply filed on 22 August, 2005, fails to place this application in condition for allowance. The only proper reply to a final Office action is a Notice of Appeal and fee, Request for Continuing Examination and submission under 37 CFR 1.114, a continuing application, or an amendment placing the application in *prima facie* condition for allowance. As such, the

filing of the amendment after final rejection on 22 August, 2005, was insufficient to save the application from abandonment.

With regard to the Appeal Brief asserted to have been filed on 9 November, 2005, the U.S. Patent and Trademark Office (Office) file is the official record of the papers filed in this application. A review of the papers filed reveals that no Appeal Brief filed in response to the Notice of Appeal filed on 9 September, 2005, was ever received in the USPTO. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioners believe that the reply was (or should have been) timely received in the Office, is not more persuasive than the date the papers are shown to have been received in the official file.

Furthermore, the copies of the Certificate of Mailing and postcard receipt, which petitioners state were filed with the petition, cannot be located among the papers received with the petition on 7 November, 2006. As such, the record is insufficient to show timely receipt of an Appeal Brief in response to the Notice of Appeal filed on 9 September, 2005.

It is therefore suggested that petitioners file a renewed petition, accompanied by a copy of the Appeal Brief including the Certificate of Mailing, and a copy of any itemized postcard receipt stamped by the Office showing the date of receipt of the Appeal Brief.

The petition is **DISMISSED.**

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 related to this decision should 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
www.uspto.gov
DIW May-07

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Donovan et al.	:	
Application No. 10/013777	:	ON PETITION
Filed: 11 December, 2001	:	
Atty Docket No. RIC99056C1	:	

This is a decision on the "RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT," which is treated as a petition under 37 CFR 1.181, filed on 1 March, 2007.

This application became abandoned on 10 November, 2005, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on 9 September, 2005, which set a two (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. On 22 August, 2006, a Notice of Abandonment was mailed. The petition filed on 7 November, 2006, was dismissed on 24 January, 2007.

Petitioners again assert that an Appeal Brief was timely filed on 9 November, 2005. In support, petitioners have filed, with the renewed petition, a copy of an Appeal Brief. A postcard receipt itemizing the filing of an Appeal Brief and fee and identifying the application by application number, first named inventor, invention title, and attorney docket number has also been provided. The postcard receipt contains an "Office-date" stamp of 9 November, 2005.

Although receipt of the $500.00 fee for the Appeal Brief on 9 November, 2005, has been entered in Office financial records, no copy of the Appeal Brief filed on 9 November, 2005 is located in the official file, petitioners' response to the restriction or election requirement is not of record in the 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 PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the Appeal Brief filed on 9 November, 2005, was received in the Office on but was not matched with the application file.

As such, the showing of record is that the Appeal Brief and fee were timely filed on 9 November, 2005, within two (2) months of the filing of the Notice of Appeal filed on 9 September, 2005. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

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

VERIZON
PATENT MANAGEMENT GROUP
1515 N. Courthouse Road, Suite 500
Arlington, VA 22201-2909

COPY MAILED

MAR 13 2008

In re Application of	:	
Steven R. Donovan *et al.*	:	
Application No. 10/013,777	:	DECISION ON PETITION
Filed: February 11, 2001	:	
Attorney Docket No. RIC99056C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 18 January 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 07 December 2007, as required by the Notice of Allowance and Fee(s) Due, mailed 07 September 2007. Accordingly, the date of abandonment of this application is 08 December 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Allen C. Ho at (571) 272-6052.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
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

MARK A. LITMAN & ASSOCIATES PA
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH STREET
EDINA, MN 55435

COPY MAILED

SEP 2 9 2004

OFFICE OF PETITIONS

In re Application of	:
Julie Yu Qian et al	:
Application No. 10/013,791	: DECISION GRANTING PETITION
Filed: December 10, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 456.005US1	:

This is a decision on the petition, filed September 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 26, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1714 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
OIW 09-02

Paper No. 7

MARIA A. TREVISAN
WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210

COPY MAILED

SEP 1 1 2002

OFFICE OF PETITIONS

In re Application of	:
Pero, Krag, and Oligino	:
Application No. 10/013,815	: DECISION ACCORDING STATUS
Filed: 5 November, 2001	: UNDER 37 CFR 1.47(a)
Atty Dkt No. V0139/7048 (HCL/MAT)	:

This is in response to the petition filed under 37 CFR 1.47(a) on 19 August, 2002 (certificate of mailing date 12 August, 2002).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Lyn Oligino, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the petitioners have established, that a copy of the above-identified application was sent to the non-signing inventor, but the non-signing inventor has failed to sign and return, however, the declaration naming her as a joint inventor along with Stephanie C. Pero and David N. Krag.

In accepting this petition, the Office is construing the statement of petitioners' registered patent agent, Maria Trevisan, to mean that a copy of the application was sent to the non-signing inventor's last known address. Petitioners **must** inform the Office if this is an incorrect interpretation.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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.

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

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

STATTLER JOHANSEN & ADELI
P O BOX 51860
PALO ALTO, CA 94303

COPY MAILED

SEP 08 2003

OFFICE OF PETITIONS

In re Application of Teig et al. Application No. 10/013,816 Filed: October 19, 2001 Attorney Docket No. SPLX.P0028	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the "PETITION UNDER 37 CFR 1.137(B)/(F)," filed June 6, 2003, which is properly treated as a petition to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that a PCT application claiming priority to a related application with a similar specification as the above-identified application was filed on December 6, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application[1].

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application

---

[1] Applicants state that pursuant to this foreign filing, on January 22, 2002, a Rescission of Nonpublication Request was filed. (This request was received in the Office on February 15, 2002). However, this Request was not accompanied by a Notice of Foreign Filing.

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. This application was published on October 10, 2002.

The application is being forwarded to Technology Center 2123 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul L. MASTER, et al	:	
Application No. 10/013,825	:	DECISION ON PETITION
Filed: December 10, 2001	:	TO WITHDRAW
Attorney Docket No. 046301-020000	:	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 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP, has been revoked by the assignee of the patent application on October 3, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARC S. KAUFMAN
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY LLP
401 9TH STREET, N.W.
WASHINGTON, DC 20004

Mail Date: 04/26/2010

Applicant	: Paul L. Master	: DECISION ON REQUEST FOR
Patent Number	: 7602740	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/013,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1738** 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/013,827	12/11/2001	Patrick Angeles	718905.0003	1213

28710 7590 07/08/2008
PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO, IL 60680

EXAMINER
SHIN, KYUNG H

ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
07/08/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte Angeles

Appeal No. 2007-3567
Application No. 10/013,827

Mailed: July 3, 2008

DECISION ON PETITION

This is a decision on the "Petition to Suspend," filed June 2, 2008 ("Petition"). Since jurisdiction of the application currently is at the Board of Patent Appeals and Interferences ("Board"), the Petition is being addressed by the Chief Administrative Patent Judge as prescribed by 37 C.F.R. § 41.3(b).

FINDINGS

1. On March 31, 2008, the Board issued a Decision on Appeal affirming the Examiner's rejections of the appealed claims.

2. On June 2, 2008, Appellant, through counsel, filed a Request for Rehearing and the Petition.

3. The Petition seeks a suspension of proceedings for a period of six months and states that Appellant's counsel has "lost contact" with Appellant.

4. Attached to the Petition are copies of reports from a private detective agency concerning "Ari Sklar," and an envelop addressed to "Ari Sklar" marked "Not Deliverable" by the U.S. Postal Service.

5. The name of the Appellant as it appears in the records of the USPTO is "Patrick Angeles."

6. The records of the USPTO indicate that Appellant assigned the application to Phlair, Inc. on December 19, 2001, and assigned the application to Acquire Inc. on April 17, 2006. The USPTO records also indicate that Acquire Inc. executed a lien in favor of Appellant's present counsel on April 13, 2006.

7. In respect to a suspension of proceedings pending before the USPTO, 37 C.F.R. § 1.103 provides:

> (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(g), unless such cause is the fault of the Office.

DISCUSSION

Since the evidence submitted with the Petition facially appears to concern a person other than Appellant or an assignee of the application, the Petition does not constitute a showing of good cause for granting a suspension in favor of Appellant.

DECISION

In view of the foregoing, the Petition is DENIED, without prejudice to the filing of a renewed petition within two weeks from the date of this Decision. The Request for Rehearing will be addressed by the Board in due course.

Michael R. Fleming
Chief Administrative Patent Judge

Appeal No. 2007-3567
Application No. 10/013,827

Peter K. Trzyna
P.O. Box 7131
Chicago, IL 60680-7131

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte Angeles

Appeal No. 2007-3567
Application No. 10/013,827

Mailed: July 3, 2008

DECISION ON PETITION

This is a decision on the "Petition to Suspend," filed June 2, 2008 ("Petition"). Since jurisdiction of the application currently is at the Board of Patent Appeals and Interferences ("Board"), the Petition is being addressed by the Chief Administrative Patent Judge as prescribed by 37 C.F.R. § 41.3(b).

FINDINGS

1. On March 31, 2008, the Board issued a Decision on Appeal affirming the Examiner's rejections of the appealed claims.

2. On June 2, 2008, Appellant, through counsel, filed a Request for Rehearing and the Petition.

3. The Petition seeks a suspension of proceedings for a period of six months and states that Appellant's counsel has "lost contact" with Appellant.

4. Attached to the Petition are copies of reports from a private detective agency concerning "Ari Sklar," and an envelop addressed to "Ari Sklar" marked "Not Deliverable" by the U.S. Postal Service.

5. The name of the Appellant as it appears in the records of the USPTO is "Patrick Angeles."

6. The records of the USPTO indicate that Appellant assigned the application to Phlair, Inc. on December 19, 2001, and assigned the application to Acquire Inc. on April 17, 2006. The USPTO records also indicate that Acquire Inc. executed a lien in favor of Appellant's present counsel on April 13, 2006.

7. In respect to a suspension of proceedings pending before the USPTO, 37 C.F.R. § 1.103 provides:

> (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(g), unless such cause is the fault of the Office.

DISCUSSION

Since the evidence submitted with the Petition facially appears to concern a person other than Appellant or an assignee of the application, the Petition does not constitute a showing of good cause for granting a suspension in favor of Appellant.

DECISION

In view of the foregoing, the Petition is DENIED, without prejudice to the filing of a renewed petition within two weeks from the date of this Decision. The Request for Rehearing will be addressed by the Board in due course.

Michael R. Fleming
Chief Administrative Patent Judge

Peter K. Trzyna
P.O. Box 7131
Chicago, IL 60680-7131

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

MAIL

MAY 29 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Rice et al. :
Application No. 10/013,849 :
Filed: December 13, 2001 :
For: ACOUSTICAL TO OPTICAL CONVERTER FOR PROVIDING PLEASING VISUAL DISPLAYS :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney or Agent of record filed on May 7, 2003.

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

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

All of the attorneys of record listed in the Request are granted the request for withdraw of attorney/agent.

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

For Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: GROVER SMITH ENTERPRISES, INC.
2905 WESTCORP BLVD., SUITE 118
HUNTSVILLE, ALABAMA 35805

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave. S.
Rochester NY 14644

COPY MAILED

APR 1 1 2005

OFFICE OF PETITIONS

In re Application of
Malachowski, et al.
Application No. 10/013,864
Filed: December 13, 2001
Attorney Docket No. A0A61-US-NP// XERZ 2 00685
For: SYSTEM AND PROCESSES FOR PARTICULATE ANALYSIS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 22, 2004. In addition, the petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment because non-receipt of the Notice of Allowance and Fee(s) Due is alleged.

The petition under 37 CFR 1.181 is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the June 17, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on September 18, 2004. A Notice of Abandonment was mailed on October 27, 2004.

Petitioners assert that the attorney of record did not receive the June 17, 2004 Notice of Allowance and Fee(s) Due.

Under 37 CFR 1.181, the showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the June 17, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

Petitioners have not proven nonreceipt because (1) an attorney of record at the correspondence address of record did not include a statement that a thorough search of the file jacket and docket records was conducted and (2) the practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

The petition under 37 CFR 1.181 is **dismissed**.

With respect to the petition under 37 CFR 1.137(b), petitioners have submitted (1) a reply in the form of the issue fee, publication fee, and the PTOL-85, (2) an acceptable statement of the unintentional nature of the delay in responding to the June 17, 2004 Notice of Allowance and Fee(s) Due, and (3) the petition fee.[2]

The petition under 37 CFR 1.137(b) is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

---

[1] See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).; MPEP 711.03(c) I A.

[2] The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional (an attorney of record). Further, the statement of unintentional delay does not comply with the provisions of 37 CFR 1.137(b)(3). Nevertheless, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to pursuant to 37 CFR 1.137(b), was unintentional." If this is an incorrect interpretation in view of the new rules, petitioner is required to provide a statement to that effect. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office. A courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: RICHARD M. KLEIN
1100 SUPERIOR AVENUE
SEVENTH FLOOR
CLEVELAND, OH 44114-2518

UNITED STATES 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

RONALD L. GRUDZIECKI
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED
AUG 2 4 2004
OFFICE OF PETITIONS

In re Application of :
Chieko Asakawa et al :
Application No. 10/013,881 : ON PETITION
Filed: December 11, 2001 :
Attorney Docket No. JP920000379US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 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 (Notice) mailed January 23, 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 24, 2002.

Pursuant to petitioner's authorization, Deposit Account No. 09-0468 was charged a total of $2,420.00 -- $1,330.00 for the petition to revive an unintentionally abandoned application and $130.00 for the surcharge fee.

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

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

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

2673

UNITED STATES 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

RONALD L. GRUDZIECKI
BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED
AUG 24 2004
OFFICE OF PETITIONS

RECEIVED
SEP 17 2004
Technology Center 2600

In re Application of :
Chieko Asakawa et al :
Application No. 10/013,881 : ON PETITION
Filed: December 11, 2001 :
Attorney Docket No. JP920000379US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 22, 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 (Notice) mailed January 23, 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 24, 2002.

Pursuant to petitioner's authorization, Deposit Account No. 09-0468 was charged a total of $2,420.00 -- $1,330.00 for the petition to revive an unintentionally abandoned application and $130.00 for the surcharge fee.

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

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

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

RECEIVED
SEP 16 2004
OIPE/JCWS

BURNS, DOANE, SWECKER & MATHIS, LLP.
RECEIVED
AUG 26 2004
8-31-04 JO
DOCKETED

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

FISH & RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

COPY MAILED

APR 27 2004

OFFICE OF PETITIONS

In re Application of
Springer, Timothy Stephen
Application No. 10/013,886
Filed: October 19, 2001
Attorney Docket No. 13146-009001

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed January 26, 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 13, 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 July 29, 2004 was previously mailed on April 22, 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 request to change the address of record should be filed. A courtesy copy of this decision, along with a courtesy copy of the above Notice, is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Technology Center Art Unit 2178 for examination in due course.

Any inquiries concerning this decision may 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

cc: FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

Enclosure: Notice Regarding Rescission of Nonpublication Request

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

Ginger R. Dreger
Knobbe Martens Olson & Bear
Suite 1150
201 California Street
San Francisco CA 94111

COPY MAILED

NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Kevin P. Baker et al.	:	
Application No. 10/013,915	:	DECISION GRANTING
Filed: December 10, 2001	:	PETITION
Attorney Docket No. P2830P1C37	:	
Title: SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME	:	

This is a decision on the "Petition under 37 CFR §1.182", filed June 25, 2002, which is properly treated as a petition under 37 CFR §1.53(b), requesting Figure 246 be accorded a filing date of December 10, 2001 as part of the original disclosure.

On December 10, 2001, the above-identified application was filed. On April 23, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequences and/or Amino Acid Sequence Disclosures" (Notice), advising applicant that Figure 246 appeared to have been omitted, and further indicating that the copy of the sequence listing was not compliant with the requirements.

In response, on June 25, 2002, applicants filed the present petition. The petition is further accompanied by a copy of applicants' postcard receipt acknowledging receipt of 249 pages of drawings in the United States Patent and Trademark Office

(Office) on December 10, 2001. On November 18, 2002, petitioner transmitted via facsimile transmission a copy of Figure 246. Applicants request that Figure 246 be accorded a filing date of December 10, 2001.

Upon review of the record, the above-mentioned Figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 10, 2001 included Figure 246, and this Figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 246 was complete on filing and entitled to a filing date of December 10, 2001 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the Notice mailed April 23, 2002 pertaining to the non-receipt of Figure 246 was sent in error. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 10, 2001 as part of the original disclosure, using the original application papers filed on that date, as well as Figure 246 submitted on November 18, 2002.

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

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

Encl. Change of Correspondence Address Form (PTO/SB/122)
Summary of the Privacy Act of 1974

cc: Ginger R. Dreger
Knobbe Martens Olson & Bear
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Baker, et al.	:	
Application No. 10/013,915	:	ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. 39780-2830 P1C37	:	

This is a decision on the petition under 37 CFR 1.181, filed December 11, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A final Office action was mailed on December 6, 2004. On March 7, 2005, applicants filed a Notice of Appeal. On August 5, 2005, applicants filed a two month extension of time and an Appeal Brief. On October 13, 2005, the Office mailed a Communication regarding the Appeal that stated the Appeal Brief was not acceptable because it did not contain a Related Proceedings Appendix, as is required by 37 CFR 41.37(c). No response was received. Therefore, this application became abandoned on August 8, 2005. A Notice of Abandonment was mailed on October 11, 2006.

In the present petition, petitioners assert that the application is not abandoned because the Notice of Appeal and the Appeal Brief were fully responsive replies that were timely received in the Office prior to their respective deadlines.

While the Notice of Appeal and the Appeal Brief were timely filed, the Appeal Brief was not acceptable. Comment 60 in Fed. Reg. 49959(August 12, 2004) states that even in there is no related proceeding, a Related Proceeding Appendix should be included with the indication "none." The Appeal Brief filed on August 5, 2005 did not contain a Related Proceeding Appendix and petitioners have yet to add one. Therefore, the application became abandoned on August 8, 2005 when the two month extension of time expired.

Petitioners are encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

COPY MAILED

MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Baker, et al. :
Application No. 10/013,915 : ON PETITION
Filed: December 10, 2001 :
Attorney Docket No. 39780-2830 P1C37 :

This is a decision on the reconsideration petition under 37 CFR 1.181, filed March 16, 2007, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A final Office action was mailed on December 6, 2004. On March 7, 2005, applicants filed a Notice of Appeal. On August 5, 2005, applicants filed a two month extension of time and an Appeal Brief. On October 13, 2005, the Office mailed a Communication regarding the Appeal that stated the Appeal Brief was not acceptable because it did not contain a Related Proceedings Appendix, as is required by 37 CFR 41.37(c). No response was received. Therefore, this application became abandoned on August 8, 2005. A Notice of Abandonment was mailed on October 11, 2006.

In the present petition, petitioners assert that the application is not abandoned because the October 13, 2006 Communication Re: Appeal was mailed to an incorrect correspondence address.

While it is true that two copies of a Revocation and Power of Attorney and Change of Address were filed in the application prior to the mailing of the October 13, 2006 Communication Re: Appeal, it is noted that the October 13, 2006 Communication Re: Appeal did not set a new period for response.

The October 13, 2006 Communication Re: Appeal states, " The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a)."

The situation is akin to the situation one finds oneself when an amendment after final fails to place an application in *prima facie* condition for allowance. An Advisory Action is mailed; however, it sets no new or superceding period for response.

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.
It appears the Office mailed the October 13, 2006 Communication Re: Appeal to the former address of record. However, the Communication Re: Appeal was mailed as a courtesy and did not start a new period for response. The application became abandoned because petitioners did not submit a proper Appeal Brief. The fact that the October 13, 2006 Communication Re: Appeal was not received does not absolve petitioners from filing a complete Appeal Brief.

Petitioners are once again encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b).

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HELLER EHRMAN LLP
275 MIDDLEFIELD ROAD
MENLO PARK CA 94025-3506

COPY MAILED

MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Baker, et al. :
Application No. 10/013,915 : ON PETITION
Filed: December 10, 2001 :
Attorney Docket No. 39780-2830 P1C37 :

This is a decision on the reconsideration petition under 37 CFR 1.181, filed December 14, 2007, renewing the request that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

A final Office action was mailed on December 6, 2004. On March 7, 2005, applicants filed a Notice of Appeal. On August 5, 2005, applicants filed a two month extension of time and an Appeal Brief. On October 13, 2005, the Office mailed a Communication regarding the Appeal that stated the Appeal Brief was not acceptable because it did not contain a Related Proceedings Appendix, as is required by 37 CFR 41.37(c). No response was received. Therefore, the Office considered the application abandoned on August 8, 2005. A Notice of Abandonment was mailed on October 11, 2006.

Petitioners assert that the application is not abandoned because the October 13, 2006 Communication Re: Appeal was mailed to an incorrect correspondence address.

Petitioners mailed at least one valid change of address well prior to the mailing of the October 13, 2006 Communication Re: Appeal.

It is noted that the October 13, 2006 Communication Re: Appeal did not set a new period for response. The October 13, 2006 Communication Re: Appeal states, " The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a)."

The October 13, 2006 Communication Re: Appeal ***should have*** set a period of response of one month or thirty days from the mailing of the notification of non-compliance, whichever was longer. 37 CFR 41.37(d). MPEP 1205.03.

Applicants were not afforded an opportunity to respond to the October 13, 2006 Communication Re: Appeal. Therefore, the petition is **granted**. Equity demands that the holding of abandonment be withdrawn and the Notice of Abandonment, mailed on October 11, 2006, be vacated.

As petitioners have filed an amended Appeal Brief on December 14, 2007, it is unnecessary to re-mail the October 13, 2006 Communication Re: Appeal and thereby set another period for response.

No extension of time fees will be charged in connection with the filing of this reconsideration petition. The $130.00 processing fee submitted with the present reconsideration petition will be refunded to deposit account no. 08-1641.

After the mailing of this decision, the application file will be returned to Technology Center G.A.U. 1647 for consideration of the amended Appeal Brief filed on December 14, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

Ginger R. Dreger, Esq.
Knobbe Martens Olson & Bear
Suite 1150
201 California Street
San Francisco, CA 94111

COPY MAILED

FEB 12 2003

OFFICE OF PETITIONS

In re Application of
Ashkenazi et et al.
Application No. 10/013,916
Filed: October 25, 2001
Attorney Docket No. P2630P1C79

DECISION ON PETITION

This is a decision on the "Petition under 37 C.F.R. 1.182," filed April 30, 2002, which is properly treated as a petition under § 1.53(e)(2). Petitioner requests that the above-identified application be accorded a filing date of October 25, 2001, with figures 172-236 considered a part of the original application disclosure.

Application papers in the above-identified application were filed on October 25, 2001. However, on March 4, 2002, the Office mailed a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures," notifying applicants *inter alia* that the application had been accorded a filing date; however, figures 172-236 described in the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition asserting that figures 172-236 that were described in the specification were duly deposited in the U.S. Patent and Trademark office on October 25, 2001, with the (sic) nonprovisional application papers. In support thereof, petitioners submitted *inter alia* a copy of their return postcard receipt.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it was date stamped as received in the USPTO on October 25, 2001 and bears an assignment of application No. 10/013,916; 2) it specifically identifies the items being filed, including "237 pages of formal drawings," and 3) it lacks any annotation of nonreceipt of any item denoted on

the postcard. Thus, petitioners have shown that the items denoted, including the 237 pages of formal drawings, were filed on October 25, 2001.

The drawing figures already considered received in the Office on October 25, 2001, were reviewed along with the missing figures supplied on petition. These papers together constitute the item described in the postcard receipt as 237 pages of formal drawings. Petitioner has shown that figures 172-236 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 11-1410, as authorized.

Petitioner is advised that the above-address was made of record in this application in February 2002. However, also earlier in February 2002, a correction of address had been made in this application. Thus, it is unclear whether the address set forth on petition is the correspondence address of record intended. If it is not, petitioner is advised to file a new change of address.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of October 25, 2001, using the application papers received in the Office and presently accorded that date; and figures 172-236 resupplied on petition filed April 30, 2002. However, it is noted that a review of PACRview suggests that these figures have already been made a part of the application as filed on October 25, 2001. Accordingly, processing should preliminarily include verification that our records show that the application as filed includes 237 pages of formal drawings.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/21/09

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10013917 Patent No.: 7029874 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

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

Thank You For Your Assistance

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

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

Comments: _____

/Janet L. Andres/ _____

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

Ginger R. Dreger, Esq.
Knobbe Martens Olson & Bear
Suite 1150
201 California Street
San Francisco, CA 94111

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Ashkenazi et al. :
Application No. 10/013,922 :
Filed: October 25, 2001 :
Attorney Docket No. GNE.2630P1C81 :

ON PETITION

This is a decision on the petition filed May 10, 2002, to accord the above-identified application a filing date of October 25, 2001, instead of October 21, 2001.

The petition is **granted**.

37 CFR 1.10(c) 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 there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of October 25, 2001.

A petition fee is not required for a petition seeking relief under 37 CFR 1.10. Therefore, the fee of $130 which accompanied the petition will be refunded to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of October 25, 2001.

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

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.
10/013,927	10/25/2001	Luc Desnoyers	GNE.2630P1C88	9969

7590 08/01/2006

Ginger R Dreger
Heller Ehrman White & McAuliffe LLP
275 Middlefield Road
Menlo Park, CA 94025

EXAMINER
TURNER, SHARON L

ART UNIT	PAPER NUMBER
1649	

DATE MAILED: 08/01/2006

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20060605

DATE MAILED:

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

Commissioner for Patents

This is a decision on the petition, filed 2-7-06, to delete inventors under 37 C.F.R. § 1.48(b).

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.

Sharon Turner
Primary Examiner
Patent Examining Art Unit 1649

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 14 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. 7,019,124 DESNOYERS et al
Issue Date: March 28, 2006
Appl No.: 10/013,929
Filed: October 25, 2001
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed September 5, 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 13, 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. 7,019,124 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,019,124
Patented: March 28, 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

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

Paper No. 8

TED R. RITTMASTER
FOLEY & LARDNER
SUITE 3500
2029 CENTURY PARK EAST
LOS ANGELES, CA 90067-3021

COPY MAILED

JUN 2 0 2002

OFFICE OF PETITIONS

In re Application of
Cary D. Talbot et al.
Application No. 10/013,943
Filed: December 7, 2001
Attorney Docket No. 047711-0275

DECISION GRANTING PETITION

This is a decision on the petition filed on February 19, 2002 (certificate of mail date), requesting that the above-identified application be accorded a filing date of December 7, 2001, instead of the presently accorded filing date of December 8, 2001.

Petitioner requests the later filing date on the basis that the application was deposited in Express Mail service on December 7, 2001, pursuant to the requirements of 37 CFR 1.10. Petitioner acknowledges that the date of the deposit in Express Mail shown on petitioner's Express Mail receipt is December 8, 2001, but argues that the application was actually deposited with the USPS on December 7, 2001.

The present petition is accompanied by a copy of a USPS Pickup Service Statement dated December 7, 2001. The USPS Pickup Service Statement is for items picked up on December 7, 2001 and lists, *inter alia*, express mail item EL857558487 as an item included in that group. Express Mail Label No. picked up on . 13 April, 2001, identifying Express Mail Label No. EL857558487US can be found on the certificate of mail, the return postcard and the transmittal letter accompanying the application papers.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail service is December 7, 2001. Therefore, the application is entitled to a filing date of December 7, 2001.

The petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 50-0872.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of December 7, 2001, not December 8, 2001.

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

Paper No. 6

COPY MAILED

JUL 05 2002

OFFICE OF PETITIONS

Mary Louise Gioeni
Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, NY 12203

In re Application of
Lagneaux, et al.
Application No. 10/013,962
Filed: December 10, 2001
Attorney Docket No. 1759064
For: METHOD FOR PRODUCING A THERMOSETTING POLYURETHANE FROM A THERMOPLASTIC POLYURETHANE AND THERMOSET POLYURETHANE OBTAINABLE USING SAID METHOD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 15, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Stephane Dassin has refused to join in the filing of the above-identified application after having been presented with the application papers.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHANE DASSIN
58, RUE LISE LESEURE
69330 MEYZIEU
FRANCE

COPY MAILED

JUL 05 2002

OFFICE OF PETITIONS

In re Application of
Lagneaux, et al.
Application No. 10/013,962
Filed: December 10, 2001
Attorney Docket No. 1759064
For: METHOD FOR PRODUCING A THERMOSETTING POLYURETHANE FROM A THERMOPLASTIC POLYURETHANE AND THERMOSET POLYURETHANE OBTAINABLE USING SAID METHOD

LETTER

Dear Sir:

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

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

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

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

CC: Mary Louise Gioeni
Heslin Rothenberg Farley & Mesiti P.C.
5 Columbia Circle
Albany, NY 12203

UNITED STATES 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 H. Close
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

COPY MAILED

APR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth M. Fallon, et al. :
Application No. 10/013,978 :
Filed: November 29, 2001 :
Attorney Docket No. 81525CEB :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 18, 2004, to revive the above-identified application.

The petition is **GRANTED**.

A non-final Office action was mailed to applicant on May 21, 2003, which set a three (3) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on August 22, 2003.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to Technology Center 2800.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-05

CROMPTON SEAGER AND TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS MN 55403-2420

COPY MAILED

JUL 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Bardy et al.	:	
Application No. 10/013,980	:	ON PETITION
Filed: 5 November, 2001	:	
Atty Docket No. 1201.1135101	:	

This is a decision on the renewed petition filed on 24 September, 2004, which is treated as a petition filed under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently-filed amendment.

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 29 November, 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

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate. (*see* § 1.14).

> **(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 present pending application was filed on 5 November, 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, which was filed concurrently with the present petition under 37 CFR 1.78(a)(3).

The present nonprovisional application was filed after 29 November, 2000, and the claim for priority herein is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2). Also, the reference to the prior-filed nonprovisional application 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 present 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 to benefit to prior-filed Application No. 09/941,814 is granted as of the date of filing the petition.

The benefit claim has been entered in Office records. A corrected Filing Receipt reflecting the instant benefit claim is enclosed for petitioners' reference.

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 is enclosed which includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and

determine whether the instant application is entitled to the benefit of the earlier filing date.

The application will be referred to Technology Center Art Unit 3762 for processing the amendment filed with the present petition, 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.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

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

Encl: Corrected Filing Receipt

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

William Greener
Law Department
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester NY 14604

COPY MAILED

JUN 06 2002

OFFICE OF PETITIONS

In re Application of
Cox et al.
Application No. 10/013,987
Filed: December 11, 2001
Attorney Docket No. P03031

DECISION GRANTING PETITION

This is a decision on the petition filed March 1, 2002, requesting that Figures 2a-c, 3 and 4 described in the specification be accorded a filing date of December 11, 2001, as part of the original disclosure.

On December 11, 2001, applicants filed the above-identified application. On January 15, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of December 11, 2001, and advising applicants that Figures 2a-c, 3 and 4 described in the specification appeared to have been omitted.

In response, on March 1, 2002, applicants filed the present petition, a copy of three (3) sheets of drawings and an authorization to charge the petition fee. The petition was accompanied by a copy of applicants' postcard receipt acknowledging receipt of three (3) sheets of drawings on December 11, 2001.

In the present petition, applicants request that the application, including Figures 2a-c, 3 and 4, be accorded a filing date of December 11, 2001, and the petition fee be refunded.

Upon review of the record, Figures 2a-c, 3 and 4, deposited on December 11, 2001, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 11, 2001, included Figures 2a-c, 3 and 4, which were subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figures 2a-c, 3 and 4, was complete on filing and will be granted a filing date of December 11, 2001.

Accordingly, the petition is granted.

The Notice was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 02-1425.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2001, using the Figure 1 submitted on December 11, 2001, and Figures 2a-c, 3 and 4, submitted on March 1, 2002.

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

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, DC 20231
www.uspto.gov

Paper No. 3

MAILED

DEC 23 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SILICON VALLEY INTELLECTUAL PROPERTY GROUP
P.O. BOX 721120
SAN JOSE CA 95172-1120

In re Application of :
Duncan A. Riach :
Application No. 10/014,003 :
Filed: December 6, 2001 :
For: **METHOD AND APPARATUS FOR DISPLAYING PROGRESSIVE MATERIAL ON AN INTERLACED DEVICE** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on November 18, 2002.

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

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

Kevin J. Zilka and Dominic M. Kotab are removed from record. Stephen H. Pettigrew and Paul D. Carmichael remain active.

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

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

cc: Bill Galliani
Cooley Godward LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 3

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

MAILED

FEB 1 4 2003

Technology Center 2600

In re Application of :
Eric Cheng :
Application No. 10/014,010 :
Filed: December 10, 2001 :
For: **MEANS FOR COMPENSATING REAR SOUND EFFECT** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on December 11, 2002.

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

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

All attorneys and agents of record in this application are removed from record.

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

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

cc: Chun M. Ng, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

UNITED STATES 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. 17

In re Application of	:	
David C. Issler	:	
Application No. 10/014,030	:	DECISION ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. 10294-583001	:	

This is a decision on the petition filed on July 15, 2004 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated July 9, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply which took the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114, together with a preliminary amendment, and a copy of a post card receipt for the filing of these items. The post card receipt shows that the papers filed were in fact received in the Office on December 9, 2003, a date within the period for filing a reply to Office letter in question, as extended by two months. It is noted that the RCE included an authorization to charge any extension of time fees and that a check for the filing fee and claim fees was included with the RCE. Based upon the filing of a timely RCE, it is clear that this application is not abandoned. Office financial records confirm receipt of the RCE filing fee and claim fees, but it is noted that the necessary extension of time fees have not yet been charged.

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 RCE that is attached to the petition. The date to which the reply is entitled is December 9, 2003. The large entity fee for a two month extension of time will also be charged as instructed on the RCE. Thereafter, the application will be forwarded to the examiner for immediate consideration and appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

St. Onge Steward Johnson & Reens LLC
986 Bedford Street
Stamford, CT 06905-5619

UNITED STATES 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. 16

COPY MAILED

JUN 1 8 2003

OFFICE OF PETITIONS

FARJAMI & FARJAMI LLP
16148 SAND CANYON
IRVINE CA 92618

In re Application of Ciby Thuruthiyil and Philip A. Fisher Application No. 10/014,064 Filed: December 10, 2001 Attorney Docket No. M-12355 US Title CMOS PROCESS WITH AN INTEGRATED, HIGH PERFORMANCE, SILICIDE AGGLOMERATION FUSE	:	DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(F) AS MOOT

This is a decision on the petition filed on May 27, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on December 9, 2002.

On December 6, 2002, a Request to Rescind the Nonpublication Request was filed with the Office. Therefore, the Nonpublication Request was rescinded prior to the foreign filing. If an

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

applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made[2].

For the reason set forth above, the petition under 37 C.F.R. §1.137(f) is **DISMISSED AS MOOT**.

As such, no petition fee is necessary. The petition fee has been refunded to petitioner's Deposit Account, as authorized in the petition.

After the mailing of this decision, the application file will be forwarded to Technology Center 2800 for further processing.

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

Paul Shanoski

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

2 Rescission generally has the effect of voiding, repealing, or annulling a previous action. See Black's Law Dictionary 1308 (7th ed. 1999) (second definition: to make void, to repeal, or annul). Thus, if an applicant makes a nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. § 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request under 35 U.S.C. § 122(b)(2)(B)(i) will be treated as annulled and the application will be treated as if the nonpublication request had never been made. See http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANN R. POKALSKY
DILWORTH & BARRESE
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

COPY MAILED
DEC 27 2006
OFFICE OF PETITIONS

In re Application of	:
Thomas Schmulling et al	:
Application No. 10/014,101	: DECISION GRANTING PETITION
Filed: December 10, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1187-26	:

This is a decision on the petition, filed December 22, 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 December 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Dec10\014101.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANN R. POKALSKY
DILWORTH & BARRESE
333 EARLE OVINGTON BLVD.
UNIONDALE, NY 11553

COPY MAILED
DEC 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Thomas Schmulling et al	:	
Application No. 10/014,101	:	DECISION ON PETITIONS
Filed: December 10, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1187-26	:	AND 37 CFR 1.55(c)

This is a decision on the petition, filed December 22, 2006, which is properly treated as a petition under 37 CFR 1.78(a)(6) and 37 CFR 1.55(c) to accept an unintentionally delayed claim under 35 U.S.C. §§ 119(e) and 119(a)-(d) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment and declaration, respectively.

A claim for benefit of priority was previously made under 35 U.S.C. § 120 and 365(c) to Application No. PCT/EP01/06833, filed June 18, 2001 and under 35 U.S.C. § 119(a)-(d) to foreign Application No. 00870132.8, filed June 16, 2000. The petition now seeks to additionally claim benefit of priority under 35 U.S.C. 119(e) to provisional Application No. **60/258,415**, filed December 27, 2000, and under 35 U.S.C. § 119(a)-(d) to foreign Application No. **EP 01870053.4**, filed March 16, 2001.

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 reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) and (iii) to the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the subject nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority under 37 CFR 1.78(a)(6) is **GRANTED.**

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, 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 Director may require additional information where there is a question whether the delay was unintentional); and
(5) the application claiming benefit of priority must be filed within 12 months of the filing date of the foreign application.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(6), and 37 CFR 1.55(c) 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. § 119(e) and 37 CFR 1.78(a)(4) and 1.78(a)(5), and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) 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.

It is noted that the claim for foreign priority appears in the amendment to the first line of the specification following the title. However, petitioner is reminded that inclusion of the claim for benefit of priority to a foreign application is more appropriately made in either an Application Data Sheet or in an oath or declaration. Additionally, as a claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) was made to Application No. PCT/EP01/06833, it should not also appear under the foreign priority data under 35 U.S.C. § 119(a)-(d) in the oath or declaration.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being to referred to Technology Center Art Unit 1638 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 119(e) and 119(a)-(d) to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/014,101	12/10/2001	1638	3020	1195-2	16	137	11

CONFIRMATION NO. 2633

CORRECTED FILING RECEIPT

OC000000021741708

Ann R. Pokalsky
DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, NY 11553

Date Mailed: 12/27/2006

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)

Thomas Schmulling, Berlin, GERMANY;
Tomas Werner, Berlin, GERMANY;

Power of Attorney:

Ann Pokalsky--34697

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/EP01/06833 06/18/2001
which claims benefit of 60/258,415 12/27/2000

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 00870132.8 06/16/2000
EUROPEAN PATENT OFFICE (EPO) 01870053.4 03/16/2001

If Required, Foreign Filing License Granted: 01/29/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/014,101

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD FOR MODIFYING PLANT MORPHOLOGY, BIOCHEMISTRY AND PHYSIOLOGY

Preliminary Class

800

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTOR'S OFFICE

MAY 15 2006

TECHNOLOGY CENTER 3600

COHEN, PONTANI, LIEBERMAN, & PAYNE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

In re application of Alex Mashinsky et al. Application No. 10/014,103 Filed: December 11, 2001 For: METHOD AND SYSTEM FOR FACILITATING TRADING OF MEDIA SPACE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 13, 2006 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) above. Regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.
Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/10/06

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTOR'S OFFICE
JUN 19 2006
TECHNOLOGY CENTER 3600

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COHEN, PONTANI, LIEBERMAN & PAVANE
551 Fifth Avenue, Suite 210
New York, NY 10176

In re application of	:	**DECISION ON PETITION**
Alex Mashinsky et al.	:	**TO MAKE SPECIAL**
Application No. 10/014,103	:	**(ACCELERATED**
Filed: December 11, 2001	:	**EXAMINATION)**
For: MEMORY AND SYSTEM FOR FACILITATING TRADING OF MEDIA SPACE		

This is in response to the renewed petition filed on June 05, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 06/15/06

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
Vij Rajarajan et al :
Application No. 10/014,114 :
Filed: December 11, 2001 :
Attorney Docket No. :
MS167414.2/40062.150USU1

ON PETITION

This is a decision on the petition filed January 24, 2007, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on November 14, 2006, with the issue fee being due on or before February 14, 2007. The the issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of November 14, 2006, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2163.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

COPY MAILED

JUL 1 2 2002

OFFICE OF PETITIONS

Jenq-Neng Hwang
18005 N.E. 68th St., Suite A101
Redmond WA 98052

In re Application of
Hwang, et al.
Application No.: 10/014,133
Filed: November 7, 2001
Attorney Docket No. HMTG03

: DECISION DISMISSING
: PETITION

This is a decision on the petition, filed May 29, 2002, requesting that the above-identified application be accorded a filing date of November 7, 2001, instead of the presently accorded date of November 4, 2001.

The petition is **dismissed.**

Any request for reconsideration of this decision should include a cover letter entitled "Reconsideration Petition under 37 CFR 1.10(c)." Petitioner is advised that this is not a final agency decision.

The petition will not be treated because the petition is not signed by either (1) all the named inventors, (2) the owner to the rights of the inventor (the assignee), or (3) a registered attorney or agent duly appointed by the inventors or owners, as is required by 37 CFR 1.33 (b).

Applicants have three options. Applicants could resubmit the petition (1) signed by both inventors or (2) signed by the assignee (if any), or (3) signed by a newly appointed registered representative. If petitioners chose to appoint a representative, then power of attorney documentation must be submitted at the same time the re-signed petition is filed. Both inventors must sign any power of attorney documents.

Petitioners are required to resubmit the petition, signed by the appropriate party/parties, unless petitioners appoint Mr. Hwang. In that case, the power of attorney to Mr. Hwang will be retroactively effective with respect to the May 29, 2002 petition and the May 29, 2002 will be treated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231
Attn: Office of Petitions
E. Shirene Willis

By facsimile: (703) 308-6916
Attn: Office of Petitions
E. Shirene Willis

By hand: Office of Petitions -- E. Shirene Willis
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

Jeng-Neng Hwang
18005 N.E. 68th St., Suite A101
Redmond, WA 98052

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Hwang et al.	:
Application No. 10/014,133	:
Filed: November 7, 2001	:
Attorney Docket No. HMTG03	:

This is a decision on the renewed petition filed July 16, 2002, to accord the above-identified application a filing date of November 7, 2001, instead of November 4, 2001.

The petition is **granted**.

37 CFR 1.10(c) 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 there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 7, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 7, 2001.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED

MAY 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Sandhu, et al. :
Application No. 10/014,135 : DECISION GRANTING PETITION
Filed: December 11, 2001 :
Attorney Docket No. H0003451 :

This is a decision on the petition filed February 11, 2002, under 37 CFR 1.10(c) requesting that the above-cited application be accorded a filing date of December 11, 2001, rather than the presently accorded filing date of December 13, 2001.

Petitioner alleges that the application was deposited with the Express Mail Service on December 11, 2001. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EL64504241US (the same Express Mail label number was placed on the original application papers located in the official file) showing a "date-in" of December 11, 2001.

In view of the above, the petition is granted. A corrected filing receipt is enclosed showing the filing date for the application as December 11, 2001.

The petition fee of $130.00 will be refunded to deposit account 170055 because the filing of the instant petition was necessitated by Office error.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2001.

Any inquiries related to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010

Kenya A. McLaughlin
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

Enclosure: Corrected Filing Receipt

BEST AVAILABLE 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

PHILIPS INTELLECTUAL PROPERTY
& STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED

FEB 20 2008

OFFICE OF PETITIONS

In re Application of	:	
Srinivas Gutta et al.	:	
Application No. 10/014,180	:	DECISION ON PETITION
Filed: November 13, 2001	:	
Attorney Docket No. US 010567	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 11, 2007 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the application became abandoned on August 12, 2007. See MPEP 1214.06. A Notice of Abandonment was mailed on October 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2164 for appropriate action by the Examiner in the normal course of business on the reply received January 15, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Gutta et al.	:	
Application No. 10/014,180	:	ON PETITION
Filed: November 13, 2001	:	
Attorney Docket No. US 010567	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 15, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (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 the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
AUG 1 8 2006
OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of Breeuwer :
Application No. 10/014,184 : Decision on Petition
Filing Date: December 11, 2001 :
Attorney Docket No. NL000693 :

This is a decision on the petition under 37 CFR 1.181, filed September 8, 2005, to withdraw the holding of abandonment.

The petition is **dismissed as moot.**

A non-final Office action was mailed November 30, 2004.

A reply and a request for a one-month extension of time were filed April 4, 2005 (Certificate of Mailing Date of March 30, 2005). The papers have been matched with the Image File Wrapper. The extension of time fee of $120 was charged to petitioner's deposit account on April 5, 2005.

The Office has not mailed a Notice of Abandonment and the application does not appear to be abandoned. Therefore, the petition is dismissed as moot since the Office is unable to withdraw a holding of abandonment.

Technology Center Art Unit 2624 will be informed of the instant decision. Thereafter, the amendment filed April 4, 2005, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
755 Page Mill Rd.
Palo Alto, CA 94304-1018

MAY 0 9 2006

In re Application of:	:	
Kyoung II Min	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/014,290	:	
Filed: December 10, 2001	:	
Attorney Docket No.: **404302000800**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 11, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation was filed on March 11, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

There are no attorneys/agents of record at this time.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SecuGen Corporation
2356 Walsh Avenue
Santa Clara, Ca 95051

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
FOR PAULA EVANS
PO BOX 061080
WACKER DRIVE STATION SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED
OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
von Hoersten, et al.	:	
Application No. 10/014,291	:	ON PETITION
Filed: October 26, 2001	:	
Attorney Docket No. 20075610-0018	:	

This is in response to the petition under 37 CFR 1.182, filed April 6, 2006.

Applicants have requested to correct the spelling of the name of inventor Stephan von Horsten to Stephan von Hoersten.

Accordingly, the request is **GRANTED**.

Office records have been changed to reflect the change in the spelling of the inventor's name.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/014,291	10/26/2001	1649	370	20075610-0018-002	11	6	2

CONFIRMATION NO. 9996
CORRECTED FILING RECEIPT
OC000000020598022
OC000000020598022

29932
SONNENSCHEIN NATH & ROSENTHAL LLP
FOR PAULA EVANS
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

Date Mailed: 09/27/2006

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)

Stephan von Hoersten, Wedemark, GERMANY;
Ants Kask, Tallinn, ESTONIA;
Hans-Ulrich Demuth, Halle, GERMANY;
Huu Phuc Nguyen, Hannover, GERMANY;
Susanne Kruber, Halle, GERMANY;
Matthias Hoffmann, Wengelsdorf, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **29932**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/244,036 10/27/2000

Foreign Applications

If Required, Foreign Filing License Granted: 01/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/014,291

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

MODULATION OF CENTRAL NERVOUS SYSTEM (CNS) DIPEPTIDYL PEPTIDASE IV (DPIV) -LIKE

ACTIVITY FOR THE TREATMENT OF NEUROLOGICAL AND NEUROPSYCHOLOGICAL DISORDERS

Preliminary Class

424

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILMER CUTLER PICKERING HALE AND DORR LLP
60 STATE STREET
BOSTON MA 02109

COPY MAILED

MAY 09 2006

OFFICE OF PETITIONS

In re Application of :
Matthew D. Crane et al. :
Application No. 10/014,300 :
Filed: October 26, 2001 :
Attorney Docket No.: 111385.141 :

ON PETITION

This is a decision on the petition filed April 13, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned November 29, 2005 for failure to timely pay the issue fee on or before November 28, 2005. Accordingly, a Notice of Abandonment was mailed January 12, 2006.

Receipt is also acknowledged of the revocation and power of attorney signed by assignee. However, a review of the power of attorney discloses that it is unacceptable since it is not in compliance with 37 CFR 3.73(b) in that the putative assignee has not established its right to take action in accordance with 37 CFR 3.73(b). Specifically, petitioners have not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*i.e.* reel and frame number). Upon completion and submission of a Certificate Under 37 CFR 3.73(b) form, the power of attorney will be acceptable.

---

[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.

(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)).

Until such time as the power of attorney and correspondence address is accepted, all future correspondence will be directed to the attorney of record at the address of record.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

FLIESLER DUBB MEYER & LOVEJOY, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

MAIL

NOV 14 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Keller et al.
Application No. 10/014,314
Filed: November 9, 2001
For: LOOP ANTENNA FORMED OF MULTIPLE CONCENTRIC IRREGULAR LOOPS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record and request to change correspondence address, simultaneously filed on July 17, 2003.

Petitioner is not of record and therefore petitioner's request is **Denied**.

The contents of the application show the petitioner as the attorney of record with the filing of the declaration and power of attorney on January 23, 2002 (paper No. 2). No other changes in the file record indicate a subsequent change of power of attorney. However, the computer records associated with the application do not list the petitioner as having power of attorney in the application. Instead, attorneys associated with customer number 23910 are listed as having power of attorney.

After consultation with the Electronic Business Center (branch of the U.S. Patent and Trademark Office which handles customer numbers and associations of customer numbers with applications), it was determined that a change of power of attorney and application associations can be effected in two ways. The first is via a paper request for change in power of attorney (similar to the current request). The second manner of effecting a change is via the filing of an Excel spreadsheet which lists applications associated with a given customer number. In January of 2003, such a spreadsheet was filed with the Office. It is assumed that a serial number was transposed which resulted in the current situation whereby the petition is not listed as having power of attorney in the subject application.

The change in customer number association has not affected the correspondence address. However, since the petitioner is not recognized as having power of attorney, the correspondence address can not be changed by the petitioner.

Given that it appears as though the change in power of attorney was unintentional, the Assignee may file a request to revoke all previous powers of attorney and request the change in correspondence address.

Future communications from the Office will be directed to the above-listed address unless a change of correspondence is specifically requested. Given the circumstances mentioned above, a courtesy copy will also be delivered to the Assignee at the address listed below.

The file is being returned to the Technology Center's Central Files to await appropriate action in turn.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

cc: JERRY H. MACHADO
1142 MOORE ROAD
WOODSIDE, CA 04062-1112

#9

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

PATENT & TRADEMARK OFFICE
MAILED

JUL - 2 2002

LICENSING & REVIEW

Craig J. Arnold.
Amster, Rothstein & Ebenstein
90 Park Avenue
New York, NY 10016

In re Application of:
Siamak Tabibzadeh:
For Serial No. 10/014,320

DECISION ON
REQUEST FOR
RECONSIDERATION

Filed: December 11, 2001
For: **METHOD FOR DIAGNOSING A PRE-NEOPLASTIC OR NEOPLASTIC LESION IN TRANSITIONAL EPITHELIAL CELLS**

This is a decision on the REQUEST FOR RECONSIDERATION filed May15, 2002 responding to the communication (FORM PTOL-456) mailed April 24, 2002.

The request has been **DENIED** to the extent indicated below.

42 U.S.C. 2182 states in part "**... useful in the production or utilization of special nuclear material or atomic energy**". A review of the application file history reveals among other things the use of a radioactive isotope "^{32}P " as disclosed in at least page 26 of the instant specification. Therefore under the directions from the Department of Energy (DOE) this application has been made available to them under 42 U.S.C. 2182 since the following subject matter relates to at least one of the following:

G. Materials, apparatus and methods concerning isotope and/or radioactive source technology including those utilizing (including responsive to) radioactive sources in:

a. Life Sciences such as medicine (diagnostic and therapeutic), ecology, disease and pest control, animal husbandry, etc.

b. Industrial processes such as food processing, sterilization, polymer production, etc.

c. Investigations of the environment or the earth

H. Instruments employing a radioactive source and/or radioactivity detector in the operation thereof.

Applicant is reminded that a response is due within forty-five days of the mailing date of the communication (FORM PTOL-456). The communication having been mailed April 24, 2002.

Joanne P. Hodge
Supervisory Legal Instruments Examiner
Licensing and Review
Patent Technology Center 3600

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

JUL 24 2003

#10

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
P. O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:
Alan R. Fritzberg et al	:
Serial No.: 10/014,335	: PETITION DECISION
Filed: December 11, 2001	:
Attorney Docket No.: 295.044US1	:

This is in response to the Petition under 37 CFR 1.59, filed June 10, 2003, to expunge proprietary material submitted by applicants.

Applicant states that on October 21, 2002, an Information Disclosure Statement was submitted consisting of a large number of documents which included several letters and/or slide presentations considered to be of a proprietary or confidential nature. Applicants request return of the proprietary documents as they are not prior art or relevant to the prosecution of the application. The examiner has reviewed the documents and found them not to be relevant to the patentability of the application.

Applicants should carefully review prior art statement submissions for such confidential material prior to submission. The items listed are clearly confidential material and are returned herewith except for the penultimate item which could not be located.

Applicants' 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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703)308-3824 or by facsimile transmission at (703) 308-7230

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

COPY MAILED

DEC 3 1 2002

OFFICE OF PETITIONS

In re Application of	:
Furuta et al.	: DECISION GRANTING
Application No. 10/014,345	: PETITION
Filed: December 14, 2001	:
Attorney Docket No. 21708US-8	:

This is a decision on the petition filed November 29, 2002, under 37 CFR 1.182, which is being treated under the provisions of 37 CFR 1.181(no fee) as a petition requesting a review of the treatment of this application by the Office of Initial Patent Examination (OIPE) such that the above-identified application be accorded a filing date of December 14, 2001, with the correct specification, claims, and formal drawings filed on that date..

The petition is **granted**.

Petitioner asserts, and a review of this file record confirms, that on December 14, 2001, the instant application papers deposited with the USPTO included a specification of 36 pages, having 18 claims, and 18 sheets of drawings. Also included, as part of an IDS filed on the same date, was a copy of a pending related US application, clearly marked (on page 1) as such. Unfortunately, and inadvertently, OIPE processed the enclosed copy of the pending related application as the specification and claims for the above-identified application. The proper oath, application data sheet, and drawing shets were correctly processed. The error is regretted.

This application is being forwarded to OIPE, Customer Corrections, for correction of USPTO records, further processing, and issuance of a corrected filing receipt, using the specification of 36 pages, having 18 claims, present on December 14, 2001.

As no petition fee is due the $130 already charged has been credited to counsel's deposit account No. 15-0030.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-1820. Inquiries related to OIPE processing should be directed to OIPE at (703) 308-1202.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark J. Pandiscio
Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02154

COPY MAILED

DEC 28 2005

OFFICE OF PETITIONS

In re Application of

James J. Frassica :

Application No. 10/014,382

: DECISION ON PETITION

Filed: December 11, 2001

:

Attorney Docket No. FA—63 CIP CON 2

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 26, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on April 27, 2005. A Notice of Abandonment was mailed on August 10, 2005.

The continuation application filed July 26, 2005, given application 11/189,561 is noted.

The application is being forwarded to Technology Center 3700, GAU 3763 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 6

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017-6105

COPY MAILED

AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of	:
Shi, Tay, Flynn, Tan, and Fulton	: DECISION REFUSING STATUS
Application No. 10/014,387	: UNDER 37 CFR 1.47(a)
Filed: 11 December, 2001	:
Attorney Docket No. GWS/18240CIP	:

This is a decision in response to the petition under 37 CFR 1.47(a) filed on 12 July, 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 11 December, 2001, without an executed oath or declaration. Accordingly, on 12 February, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. In response, on 12 July, 2002, petitioners submitted a declaration naming Xu Shi, Beng Kang Tay, David Ian Flynn, Hong Siang Tan, and Michael Fulton as joint inventors and signed by all of the joint inventors except Fulton. The declaration was also signed by joint inventor Tay on behalf of non-signing joint inventor Fulton. The present petition,

surcharge, and authorization to charge a three (3) month extension of time, were also filed.

Petitioners state that Fulton has moved and is believed to be living in the United States and cannot now be located.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1), (2), and (5).

In regards to item (1), petitioners have not shown that diligent efforts were made to locate the non-signing inventor.[1] At a minimum, petitioners must sent or give a copy of the application papers (specification, including the claims, drawings, if any, and the declaration) to the non-signing inventor at the inventor's last known address. Petitioners may show diligent efforts to locate the non-signing inventor by providing a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Additionally, if Fulton no longer lives at the last known address, petitioners may show diligent efforts (*e.g.*, by use of Internet or other database searches) to determine a current address for the non-signing inventor. If a more recent address is discovered, petitioners should send or give a copy of the application papers to the inventor at that address.

If the envelope sent to the non-signing inventor at the last

---

[1] MPEP 409.03(d).

known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

In regards to item (2) the declaration submitted with the present petition is not acceptable because only one of the joint inventors (Tay) has signed on behalf of non-signing inventor Fulton. A declaration is acceptable if all of 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. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor, must be submitted with any renewed petition.

In regards to item (5), if a more recent last known address is discovered for the non-signing inventor, that address must be provided with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 01-03

Paper No. 8

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017-6105

COPY MAILED

JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of	:
Shi, Tay, Flynn, Tan, and Fulton	: DECISION ACCORDING STATUS
Application No. 10/014,387	: UNDER 37 CFR 1.47(a)
Filed: 11 December, 2001	:
Attorney Docket No. GWS/18240CIP	:

This is a decision in response to the renewed petition under 37 CFR 1.47(a) filed on 20 December, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor cannot be found. Specifically, petitioners have shown, via the declaration of petitioner's counsel, Alan Israel, that a copy of the application sent to the non-signing inventor's last known address in Singapore. Additionally, despite attempts to determine a more recent address for the non-signing inventor, who is believed to now be residing in the United States, via telephone and Internet, the non-signing inventor could not be located.

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, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 01-03

Michael Fulton
175 Jalan Loyang Besar
Singapore 509428
REPUBLIC OF SINGAPORE

COPY MAILED

JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of
Shi et al.
Application No. 10/014,387
Filed: 11 December, 2001
For: FILTERED CATHODE ARC SOURCE DEPOSITION APPARATUS

Dear Mr. Fulton:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned 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).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017-6105

#10

UNITED STATES 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

JUN 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McDermott, Will & Emery
600 13th Street, N.W., Suite 1200
Washington DC 20005-3096

In re Application of
Ichiro Kawamura, et al.
Application No. 10/014,431
Filed: December 14, 2001
For: **RECORDING MEDIUM CARTRIDGE AND SIGNAL RECORDING APPARATUS**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed April 6, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed December 4, 2002. A Notice of Abandonment was mailed on March 28, 2005.

Petitioner asserts that a proper response was timely filed on March 4, 2003. In support of the petition, Petitioner has submitted, a copy of Applicant's reply including a Terminal Disclaimer and Supplemental Declaration and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on March 4, 2003.

The original correspondence filed was not matched with 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 U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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.
10/014,469	12/14/2001	Horng Jaan Lin	9368 (3225-129)	1072

26884 7590 04/29/2008
PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

EXAMINER
RUDY, ANDREW J

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

APR 2 8 2008

TECHNOLOGY CENTER 3600

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

In re Application of: Horong Jaan Lin et al.
Application No. 10/014,469
Filed: December 14, 2001
For: PERSONAL DATA MINING ON THE WEB

DECISION ON PETITION TO WITHDRAW THE RESTRICTION REQUIREMENT MADE IN THE OFFICE ACTION OF FEBRUARY 23, 2005 UNDER 37 C.F.R. 1.181

This is in response to the petition filed on February 6, 2006 under 37 C.F.R. 1.181 requesting the withdrawal of the restriction requirement made in the office action of February 23, 2005. The delay in treating this petition is sincerely regretted. In the restriction requirement the Primary Examiner required restriction into two groups. Group I contained claims 1-9. Group II contained claims 10-17.

A review of the file reveals that the Primary Examiner withdrew said restriction requirement and rejoined the claims in his Office Action mailed on March 1, 2006.

Furthermore, a review of the file reveals that a "Notice of Abandonment" was mailed on September 26, 2007 pursuant to Applicant's failure to timely file a proper reply to the Office Action mailed on September 14, 2006.

The petition is therefore **DISMISSED as moot**.

Any questions regarding this decision should be directed to Matthew S. Gart, Supervisory Patent Examiner, at (571) 272-3955.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Msg/snm: 4/14/2008
SM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

MAILED

JAN 1 4 2004

Technology Center 2100

John E. Hoel
Morgan & Finnegan, L.L.P.
345 Park Avenue
New York, NY 10154-0053

In re Application of: Hennessey	)	
Application No. 10/014,470	)	**DECISION ON PETITION TO**
Attorney Docket No. 1963-7422US1	)	**WITHDRAW HOLDING OF**
Filed: December 14, 2001	)	**ABANDONMENT UNDER 37 CFR**
For: A REAL-TIME "GARBAGE	)	**§1.181**
COLLECTOR"	)	

This is a decision on the petition, filed September 29, 2003 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is being considered under 37 CFR §1.181. This application was held abandoned for failure to respond to the Office action mailed October 1, 2002 (Paper No. 4). A Notice of Abandonment was mailed on May 6, 2003 (Paper No. 5).

In support of the petition, applicants' representative provides a statement that the Office action was not received and that a search of the file jacket and document records has been performed. The practitioner has also submitted a copy of the docket record as Exhibit A where the Office action would have been entered had it been received and docketed.

The evidence submitted has overcome the presumption of receipt in accordance with the guidelines set forth in MPEP § 711.03(c).

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff. The Office action will be remailed with the three-month shortened statutory period for reply restarted to run from the date of the remailing. Telephone inquiries should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES 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 Gregory Cullem
Intellectual Property Counsel
Cell Signaling Technology, Inc.
3 Trask Lane
Danvers, MA 01923

COPY MAILED

APR 19 2007

OFFICE OF PETITIONS

In re Application of:
COMB, et al.
Application No.: 10/014,485
Filed: November 13, 2001
Atty's Docket No.: CST-138 CIP2

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 September 05, 2006.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 12, 2006, which set a statutory period for reply of three (3) months. Applicant paid the $300.00 publication fee, however, applicant's deposit account did not contain sufficient funds to pay the $700.00 issue fee. Accordingly, the above-identified application became abandoned at midnight on July 13, 2006.

On September 05, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein.

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).

The instant petition does not satisfy requirements (1) and (2) above. Specifically, while applicant has authorized the charging of the issue fee and petition fee to deposit account number 50-1774, the account does not contain sufficient funds for both fees. Applicant is advised that the correct small entity petition to revive under 37 CFR 1.137(b) is $750.00. As such, in order for the petition to be granted fees totaling $1450.00 were needed. The deposit account did not contain sufficient funds to take this amount of money and therefore the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

This application remains **ABANDONED**.

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
Alexandria, VA 22313-1450
www.uspto.gov

James Gregory Cullem
Intellectual Property Counsel
Cell Signaling Technology, Inc.
3 Trask Lane
Danvers, MA 01923

COPY MAILED

JUL 02 2007

OFFICE OF PETITIONS

In re Application of:
COMB, et al.
Application No.: 10/014,485
Filed: February 13, 2001
Atty's Docket No.: CST-138 CIP

DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This is a decision on the renewed petition for revival of the above-entitled application under 37 CFR 1.137(b), filed May 15, 2007.

The petition is **GRANTED**.

On 19 April 2007, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.137(b). Applicant was afforded two months to file any request for reconsideration.

On May 15, 2007, applicant filed the present renewed 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 fee (The publication fee was paid through a previous filing). Accordingly, the issue fee payment is 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
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20037-3213

COPY MAILED

JAN 13 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tomohiro Nakata et al. :
Application No. 10/014,516 :
Filed: December 14, 2001 :
Attorney Docket No.: Q67231 :

This is a decision on the petition filed December 16, 2005, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on August 15, 2005, for failure to timely submit a timely response to the non-Final Office Action mailed May 12, 2005, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed December 13, 2005.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt date stamped August 10, 2005 by the USPTO.

A search of the application file and the USPTO records reveals that in fact, an amendment was filed on August 10, 2005. Accordingly, the Notice of Abandonment mailed December 13, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to Technology Center 3654 for appropriate action on the amendment filed August10, 2005, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

AUG 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Parunak et al.	:	DECISION ON APPLICATION
Application No. 10/014,520	:	FOR
Filed: December 14, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 19662-026001	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed July 24, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from thirty-four (34) days to seventy-one (71) 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 **seventy-one (71)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 24, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 34 days. On July 24, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants' basis for the application for patent term adjustment is the calculation of a period of application delay based on the May 19, 2004 mailing date of the Final Rejection instead of from the proper June 24, 2004 mailing date of the Notice of Restarted Response Period. As applicants' response was filed on October 20, 2004, applicants assert that the period of applicant delay should be 25 days, not 62 days. Applicants otherwise agree with

[1] PALM records indicate that the Issue Payment was filed on July 24, 2007.

the calculation of patent term adjustment at the time of the mailing of the notice of allowance.

Applicants state that the subject U.S. patent is not subject to a terminal disclaimer.

In this instance, applicants are correct. Any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As applicants' response was received three months and 25 days after the Notice of Restarted Response Period, the period of applicant delay within the meaning of §1.704(b) is 25 days (i.e. September 26, 2004 to October 20, 2004).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 71 days.

The 200.00 fee set forth in 37 CFR 1.18(e) is being charged to petitioner's Deposit Account, as authorized. No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Monday
Date: 8/13/2007

PALM INTRANET

Time: 20:52:29

PTA Calculations for Application: 10/014520			
Application Filing Date:	12/14/2001	PTO Delay (PTO):	285
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	251
Post-Issue Petitions:	0	Total PTA (days):	71
PTO Delay Adjustment:	37		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
104	08/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		25	
103	08/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	62		
93	04/24/2007	MAIL NOTICE OF ALLOWANCE			
92	04/20/2007	ISSUE REVISION COMPLETED			
91	04/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
90	04/18/2007	DOCUMENT VERIFICATION			
89	04/18/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
88	04/16/2007	NOTICE OF ALLOWABILITY			
87	10/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
86	04/13/2007	CORRESPONDENCE ADDRESS CHANGE			
85	04/13/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
84	03/30/2007	MISCELLANEOUS INCOMING LETTER			
83	01/22/2007	NEW OR ADDITIONAL DRAWING FILED			
82	02/01/2007	DATE FORWARDED TO EXAMINER			
81	01/22/2007	RESPONSE AFTER NON-FINAL ACTION		31	74
80	01/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
79	01/18/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
78	01/10/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
77	01/09/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
76	10/16/2006	REFERENCE CAPTURE ON IDS			

75	10/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
74	09/22/2006	MAIL NON-FINAL REJECTION			
73	09/18/2006	NON-FINAL REJECTION			
72	09/19/2006	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
71	06/26/2006	NEW OR ADDITIONAL DRAWING FILED			
70	07/05/2006	DATE FORWARDED TO EXAMINER			
69	06/26/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
68	07/05/2006	DATE FORWARDED TO EXAMINER			
67	06/26/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)		63	61
66	07/05/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
65	06/26/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	06/26/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
63	03/30/2006	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
62	03/28/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
61	01/24/2006	MAIL FINAL REJECTION (PTOL - 326)			
60	01/23/2006	FINAL REJECTION			
59	11/18/2005	DATE FORWARDED TO EXAMINER			
58	11/10/2005	RESPONSE AFTER NON-FINAL ACTION			
57	08/10/2005	MAIL NON-FINAL REJECTION			
56	08/05/2005	NON-FINAL REJECTION			
55	07/21/2005	DATE FORWARDED TO EXAMINER			
54	07/13/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
53	07/21/2005	DATE FORWARDED TO EXAMINER			
52	07/13/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		93	33
51	07/21/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
50	07/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	07/13/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	07/12/2005	WORKFLOW - REQUEST FOR RCE - FINISH			

44	07/12/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	07/13/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
42	07/11/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
41	07/06/2005	MAIL ADVISORY ACTION (PTOL - 303)			
40	07/01/2005	ADVISORY ACTION (PTOL-303)			
39	07/05/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
38	07/01/2005	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
37	07/01/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
36	06/30/2005	DATE FORWARDED TO EXAMINER			
35	04/13/2005	AMENDMENT AFTER FINAL REJECTION			
34	04/19/2005	CORRESPONDENCE ADDRESS CHANGE			
33	01/11/2005	MAIL FINAL REJECTION (PTOL - 326)			
32	01/10/2005	FINAL REJECTION			
31	10/22/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	29
30	11/01/2004	DATE FORWARDED TO EXAMINER			
29	10/20/2004	RESPONSE AFTER NON-FINAL ACTION		62	18
28	10/20/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
27	10/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
26	07/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	06/28/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	06/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	06/15/2004	REFERENCE CAPTURE ON IDS			
22	06/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/25/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
20	06/23/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
19	06/23/2004	CORRESPONDENCE ADDRESS CHANGE			
18	05/19/2004	MAIL NON-FINAL REJECTION			
17	05/17/2004	NON-FINAL REJECTION			

16	04/18/2004	CORRESPONDENCE ADDRESS CHANGE			
15	04/19/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
14	04/19/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
13	03/03/2004	DATE FORWARDED TO EXAMINER			
12	02/06/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
11	02/06/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
10	11/26/2003	MAIL RESTRICTION REQUIREMENT	285		-1
9	11/25/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
8	12/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	10/31/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	08/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	01/08/2002	APPLICATION DISPATCHED FROM OIPE			
4	01/07/2002	APPLICATION IS NOW COMPLETE			
2	12/26/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/14/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700.

Mailed: SEP 21 2004

rvk
Paper No. _____

In re application of:
John Horansky
Serial No.: 10/014,537
Filed: October 26, 2001
For: CO-EXTRUDED PIGMENTED/CLEAR COATED POLYMERIC COATING FOR AN ARTICLE SUCH AS AUTOMOTIVE EXTERIOR BODY PANELS

DECISION ON PETITION

This is a response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181, filed January 08, 2004. The request asks that the abandonment, as set forth in the Notice of Abandonment of December 31, 2003, for failure to timely file a proper response to the Office letter dated June 20, 2003 be withdrawn. The requester asserts that applicant timely filed a proper response and a Petition for Extension of Time on December 19, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the request has merit. The evidence presented is sufficient to establish that the applicant did file the proper response to the Office letter of June 20, 2003 in a timely manner. The evidence provided includes: 1) a copy of the Response and Request for a three-month Extension of Time with an executed Certificate of Facsimile Transmission dated December 19, 2003; and 2) a copy of the Auto-Reply Facsimile Transmission sheet confirming receipt of the Response and Request for Extension of Time by the USPTO dated December 19, 2003.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application will be forwarded to the Technical Support Staff for entering of the Response dated December 19, 2003 and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

RALPH E. SMITH
DAIMLERCHRYSLER INTERLLECTUAL CAPITAL CORPORATION
CIMS: 483-02-19
800 CHRYSLER DRIVE EAST
AUBURN HILLS, MI 48326-2757

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CATERPILLAR c/o LIELL & MCNEIL ATTORNEYS PC
P.O. BOX 2417
511 SOUTH MADISON STREET
BLOOMINGTON IN 47402-2417

COPY MAILED

FEB 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Wilson et al.	:	
Application No. 10/014,654	:	ON PETITION
Filed: December 11, 2001	:	
Attorney Docket No. 01-129	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 13, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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 Walsh
Petitions Examiner
Office of Petitions

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATI
UNITED STATES PATENT AND TRADEMARK OF
WASHINGTON, D.C. 2(
www.uspt(

April 05, 2002

Thomas P. Schiller
526 Superior Avenue East
Suite 1200
Cleveland , Ohio 44114-1484

Dear Attorney Schiller

We regret to inform you that your refund request dated 03/11/2002 for the amount of $280 application number 10/014683 cannot be granted for the reason specified below.

- ☐ Refund based upon subsequent establishment of small entity status: A refund based on establishment of small entity status may be granted only if a written assertion of entitlement to small entity status under 37 CFR 1.27 and a request for refund of the excess amount are filed within three months of payment and of the fee (37 CFR 1.28). Three-month period for establishing small entity status and requesting a refund has expired.

- ☐ Refund of application filing or petition fee: Filing fees paid for an application that is entitled to a filing date and required petition fees are not fees paid by mistake or in excess. If an application is **not** entitled to a filing date and proceedings are terminated on the application, any filing fees (less the $130 handling fee) will be refunded (37 CFR 1.53(e)(3)).

- ☐ Refund of overpayment: There was no overpayment made by applicant. All fees were calculated and assessed properly. ****See below****

- ☐ The payment for which the refund is requested has not been applied to the application. The payment check was returned to applicant for the following reason:
  - ☐ Not filled out properly. (See attached copy of notice.)
  - ☐ Not made payable in U.S. funds.
  - ☐ No explanation was given as to purpose.
  - ☐ Payment was previously received and applied by Office.
  - ☐ Check was returned by bank for insufficient funds.

****Any request for reconsideration or review of this decision must be by way of a petition filed within two months of this decision, which decision must set forth with particularity why a refund is due (*see* 37 CFR 1.181(b) and (f)).**

The extra money was needed for claims. Claim numbers 24, 25, and 26 are multiple claims and therefore you were charged a multiple claim fee of $280.00

If there are any further questions, please contact Customer Service at (703) 308-1202.

Sincerely,

Eleanor F. Kurtz
Office of Initial Patent Examination

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)
6,694,967	2004-02-24	10/014,690	2001-12-11	WEB-777-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 I. Roche /	Date (YYYY-MM-DD)	2008-03-03
Name	David I. ROCHE	Registration Number	30797

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. 6694967
Issue Date: February 24,2004
Application No. 10014690
Filed: December 11,2001
Attorney Docket No. 217 P 777

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 3,2008 ,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 3,2008 . 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

Jeffrey J. Hohenshell
710 Medtronic Parkway
Minneapolis MN 55432

COPY MAILED

SEP 20 2005

OFFICE OF PETITIONS

In re Patent No. 6,890,330 :
Issue Date: May 10, 2005 :
Application No.: 10/014,699 : NOTICE
Filed: October 26, 2001 :
Attorney Docket No.: VIA 10.01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 26, 2005.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.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.

Pursuant to petitioner's authorization, deposit account no. 13-2546 will be charged $700.00, which is the balance due on the issue fee. Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. The change of status to a large entity has been entered and made of record.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

EXXONMOBIL CHEMICAL COMPANY
P.O. BOX 2149
BAYTOWN, TX 77522-2149

COPY MAILED

OCT 2 7 2003

OFFICE OF PETITIONS

In re Application of
Jeffrey O'Brien Jeffrey et al
Application No. 10/014,700
Filed: October 22, 2001
Attorney Docket No. 10041-3

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 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 5, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 6, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 1771 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 16

LISA M. SOLTIS
ILLINOIS TOOL WORKS INC.
3600 WEST LAKE AVENUE
GLENVIEW, IL 60025

COPY MAILED

JAN 0 9 2004

OFFICE OF PETITIONS

In re Application of
Shkolnikov et al.
Application No. 10/014,706
Filed: November 13, 2001
Attorney Docket No. 13413.70

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed April 21, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 22, 2003. 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).

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The file is now being forwarded to Technology Center 3700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Sherry Bowlby for

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

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT PC
1940 DUKE ST
ALEXANDRIA VA 22314

COPY MAILED

APR 14 2006

OFFICE OF PETITIONS

In re Application of	:
Lindner, et al.	: DECISION GRANTING PETITION
Application No. 10/014,712	: AND WITHDRAWING THE
Filed: December 12, 2001	: HOLDING OF ABANDONMENT
Attorney Docket No. 213142US0	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 3, 2006.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed March 25, 2005. This Notice set a period for reply of three (3) months for issue fee transmittal. Applicants paid the issue fee and publication fee on May 26, 2005. On September 2, 2005, the Office mailed a Corrected Notice of Allowance, requiring no fee. The Corrected Notice of Allowance was vacated in a letter from this Office, a copy of which is not in the application file but has been supplied on petition. On February 26, 2006, the Office mailed a Notice of Abandonment.

Obviously, in view of the above, applicants timely paid the issue fee, and the application should never have been held abandoned.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 4

MATT TAYLOR
2741 MIDDLEFIELD ROAD
PALO ALTO CA 94306-2518

COPY MAILED

JUL 1 6 2002

OFFICE OF PETITIONS

In re Application of
Taylor, et al.
Application No. 10/014,718
Filed: November 7, 2001
Title: SYSTEM AND METHOD FOR
AUGMENTING KNOWLEDGE COMMERCE

DECISION ON PETITION

This is a decision on the petition filed on March 6, 2002, acknowledging that Figures SS1-1 to SS1-7 were not submitted on November 7, 2001 as a part of the original disclosure, but asserting that Figures SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 were submitted on that date as a part of the original disclosure.

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. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.53." This is **not** a final agency decision within the meaning of 5 USC 704.

Application papers in the above-identified application were filed on November 7, 2001. However, on January 28, 2002, the Initial Patent Examination Division mailed applicant a "Notice of Omitted Item(s) in a Nonprovisional Application." Applicant was notified that a filing date had been accorded in the above-identified application; however, Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 appeared to have been omitted from the application.

In reply, applicant filed the instant petition. Applicant acknowledges that Figures SS1-1 to SS1-7 were not submitted on November 7, 2001 as a part of the original disclosure. However, applicant does contend that Figures SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 were submitted on November 7, 2001 as a part of the original disclosure.

Papers filed in a patent application must be signed by:

> (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
> (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34(a);
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) **All of the applicants (§1.41(b)) for patent**, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with §3.71 of this chapter.[1]

[1] 37 CFR 1.33(b) (emphasis added).

Here, the instant petition was only signed by one of the applicants for patent, Matt Taylor. The other applicant, Gail Taylor, has not signed the petition. There is no indication in the record that a registered attorney has been appointed in the above identified application. In addition, there is no indication that there has been an assignment.

Accordingly, until the petition is signed by a party or parties as set forth in 37 CFR 1.33(b), the petition can not be considered on the merits.

Furthermore, because applicant has acknowledged that Figures SS1-1 to SS1-7 were not submitted as a part of the original disclosure on November 7, 2001, applicant has one of two options on renewed petition. Applicant can: (1) accord the filing date of March 6, 2002 (the date the acknowledged missing Figures SS1-1 to SS1-7 were submitted in the above-identified application), in which case Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 will be used during the prosecution of the application, or (2) accept the filing date of November 7, 2001 as the filing date. However, in the event option (2) is chosen, Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 will not be used during the prosecution of the application. Applicant may resubmit the matter included in Figures SS1-1 to SS1-7, SS2-30A, SS2-40, SS2-92-93, SS3-11, and SS6-2 as a Preliminary Amendment for consideration by the examiner before a first Office action on the merits.[2]

The failure to timely file a request for reconsideration will be treated as a constructive acceptance of the application as deposited in the USPTO on November 7, 2001.

Further correspondence with respect to this decision 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: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703)305-0272.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] However, in accordance with Section 608.02(h) of the Manual of Patent Examining Procedure, the Figures will not be entered if the examiner determines the Figures comprise "new matter".

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

BRIAN ROFFE, ESQ
366 LONGACRE AVENUE
WOODMERE, NY 11598

COPY MAILED

APR 2 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shaer :
Application No. 10/014,720 :
Filed: December 11, 2001 :
Attorney Docket No. 107.103 :

This is a decision on the petition filed March 18, 2002, to accord the above-identified application a filing date of December 11, 2001, instead of December 14, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by theUSPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of December 11, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of December 11, 2001.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Office of Intellectual Property Counsel
3M Innovative Properties Company
PO Box 33427
St. Paul, MN 55133-3427

COPY MAILED

JUL 27 2004

OFFICE OF PETITIONS

In re Application of :
William E.Foltz, et al. :
Application No. 10/014,736 :
Filed: December 11, 2001 :
Attorney Docket No. 53934US010 :

ON PETITION

This is a decision on the petition, filed July 23, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 28, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being referred to Technology Center AU 1651 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 PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

Alvin J. Riddles
Box 34, Candlewood Isle
New Fairfield, CT 06812

COPY MAILED
MAR 2 6 2004
OFFICE OF PETITIONS

In re Application of
Christos Dimitrios Dimitrakopoulos, et. al.
Application No. 10/014,766
Filed: December 11, 2001
Attorney Docket No. YOR920010283US2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2004, to revive the above-identified application.

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 Technology Center Art Unit 2813, for review of the response filed with the instant petition .

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Alvin J. Riddles
P.O. Box 34
New Fairfield, CT 06812-0034

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)
6,564,921	2003-05-20	10/014,770	2001-12-11	1054.01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/makammer34197/	Date (YYYY-MM-DD)	2007-07-28
Name	Mark A. Kammer	Registration Number	34197

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6564921
Issue Date: May 20,2003
Application No. 10014770
Filed: December 11,2001
Attorney Docket No. 22513.12

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 28,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 28,2007 . 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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED
APR 2 0 2006
OFFICE OF PETITIONS

In re Patent of :
Acton, et al. :
Patent No. 6,881,231 :
Issue Date: April 19, 2005 : Decision on Petition
Application No. 10/014,795 :
Filing Date: December 14, 2001 :
Attorney Docket No. 3948-4

This is a decision on the petition under 37 CFR § 1.183, filed July 26, 2005, to waive the rules and accept the correction of the assignee data on the front page of the above-identified patent. The petition is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The request under 37 CFR 3.81 is **dismissed**.

Effective June 25, 2004, 37 CFR 3.81(b) has been revised to no longer require the correction of the assignee data prior to issuance of the patent. Therefore, a petition to waive the rule is unnecessary. 37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

The instant petition is dismissed because the completed PTOL-1050 previously submitted on April 25, 2005 does not list the correct assignee. It only requests deletion of the incorrect

assignee. Clarification of petitioner's desire is requested. If petitioner desires a Certificate of Correction deleting the incorrect assignee and listing the correct assignee, please submit a completed PTOL-1050 to that effect with any reconsideration petition.

Regarding finances, because petitioner filed the petition under 37 CFR 1.183, a $400.00 petition fee was charged to petitioner's deposit account. The petition is being treated as a request under 37 CFR 3.81(b). Therefore, only a $130.00 fee is due. The balance, or $270.00, will be credited to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 – ATTN: Office of Petitions

The file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
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

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

COPY MAILED
NOV 3 0 2006
OFFICE OF PETITIONS

In re Patent of	:	
Acton, et al.	:	
Patent No. 6,881,231	:	
Issue Date: April 19, 2005	:	Decision on Petition
Application No. 10/014,795	:	
Filing Date: December 14, 2001	:	
Attorney Docket No. 3948-4		

This is a decision on the reconsideration request under 37 CFR 3.81(b), filed May 22, 2006, to accept the correction of the assignee data.

The request under 37 CFR 3.81(b) is **GRANTED**.

37 CFR 3.81(b) currently states:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Petitioners have met the requirements set forth above. Therefore, the request is granted.

Regarding finances, petitioners have paid two $100.00 Certificate of Correction fees. Only one fee is required. Deposit account no. 14-1140 will be credited $100.00.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date :03/07/07

Patent No. : 7141302 B2
Ser. No. : 10/014,796
Inventor(s) : MUELLER, ERHARD
Issued : 11/28/06
Title : **SUTURE MATERIAL FOR SURGERY, PROCESSES FOR ITS PRODUCTION AND THE USE THEREOF**
Docket No. : 24857

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 Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NATH & ASSOCIATES
112 South West Street
Alexandria VA 22314

COPY MAILED

AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Mueller et al.	:	
Application No. 10/014796	:	DECISION
Filing or 371(c) Date: 12/14/2001	:	ON PETITION
Patent No.: 7141302	:	
Issue Date: 11/28/2006	:	
Attorney Docket No.: 24857	:	

This is a decision on the request for Request to Correct Erroneous Assignment Data Under 37 CFR 3.81(b), filed April 6, 2007, requesting correction of the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect that DEUTCH INTSITUTE FÜR TEXTIL-UND FASERFORSCHUNG STUTTGART STIFTUNG DES ÖFFENTLICHEN RECHTS is the assignee of record. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TROXELL LAW OFFICE PLLC
BRUCE H. TROXELL
5205 LEESBURGE PIKE
SUITE 1404
FALLS CHURCH, VA 22041

COPY MAILED

APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Shih-Ming Huang	:	
Application No. 10/014,868	:	ON PETITION
Filed: December 14, 2001	:	
Attorney Docket No. 3126-222	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 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 September 24, 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 December 25, 2003.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3618.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 4

Swidler Berlin Shereff Friedman LLP
3000 K. Street, NW
Box IP
Washington, DC 20007

COPY MAILED

JUL 0 9 2003

OFFICE OF PETITIONS

In re Application of	:
Jonathan Edwards et al.	:
Application No. 10/014,873	: DECISION GRANTING PETITION
Filed: December 14, 2001	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 19903.0012	:

This is a decision on the petition, filed May 6, 2003, under 37 CFR 1.137(f), which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on August 14, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). 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 Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 16, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2134 for examination in due course.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP
3000 K STREET, NW
BOX IP
WASHINGTON, DC 20007

COPY MAILED

AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of
Edwards et al.
Application No. 10/014,874

Filed: December 14, 2001
Attorney Docket No. 19903.0011

DECISION DISMISSING PETITION UNDER 37 CFR 1.137(f) AS MOOT

This is a decision on the "Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))," filed May 6, 2003.

The petition is **DISMISSED AS MOOT**.

Petitioner states that the instant nonprovisional application became the subject of an application filed in an eighteen-month country on August 14, 2002. A review of the file record discloses that a Notice to Rescind was received in the U.S. Patent and Trademark Office on August 14, 2002.

Where an applicant makes a nonpublication request under 35 U.S.C. 122(b)(2)(B)(i) and then rescinds (pursuant to 35 U.S.C. 122(b)(2)(B)(ii)) the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the nonpublication request will be treated as annulled and the application will be treated as if the nonpublication request were never made. See *Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2))(B)(ii)-(iv)*, 1272 OG 22 (July 1, 2003).

In the instant application, a notice to rescind was filed on the date of filing of the counterpart application in an eighteen month publication country. Therefore, since receipt in the U.S. Patent and Trademark Office of the request to rescind on the date of the filing of the corresponding application in an eighteen-month publication country resulted in the annulling of the nonpublication request, this application is not regarded as abandoned. As such, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

Since this application is not in fact abandoned for the reason stated above, the petition fee of $1,300 is being credited to Deposit Account No. 19-5127, as authorized.

This application is being forwarded to Technology Center 2131 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

COPY MAILED

AUG 2 1 2003

OFFICE OF PETITIONS

Applicant: Krissansen et al.
Appl. No.: 10/014,887
Filing Date: December 11, 2001
Title: CANCER THERAPY
Attorney Docket No.: 4630-62267
Pub. No.: US 2003/0003092 A1
Pub. Date: Jan. 2, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), which was received via facsimile transmission on February 28, 2003, for the above-identified application.

The request is granted.

Applicant is advised that many of the errors in the publication may have been caused by the poor quality of the text in the application as originally filed. Applicant may want to consider filing applications with cleaner text in the future to prevent errors in the publication of other applications.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CORWIN R. HORTON
THE PARK, SUITE 2001
25 MANN DRIVE
KENTFIELD, CA 94904

COPY MAILED

SEP 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,849,168 :
Issue Date: February 1, 2005 :
Application No. 10/014,892 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. M - 2 :

This is a decision on the petition filed February 14, 2005, which is being treated as a petition 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**.

In view of granting this decision, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323 upon payment of the required fee of $100 therefor.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

7

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/20/07

TO SPE OF : ART UNIT 2676

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/014894** Patent No.: **6791550**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

ULKA CHAUHAN
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 2628

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/20/07

TO SPE OF : ART UNIT 2676

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/014894** Patent No.: **6791550**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KEE M. TUNG
SUPERVISORY PATENT EXAMINER
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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

COPY MAILED

OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Andrew B. BAKER, et al	:	
Application No. 10/014,919	:	DECISION ON PETITION
Filed: December 11, 2001	:	TO WITHDRAW
Attorney Docket No. OTS-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 18, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Proskauer Rose, LLP, has been revoked by the assignee of the patent application on October 10, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MATHEW L. GINSBERG
ON TIME SYSTEM, INC.,
1850 MILLRACE DRIVE, SUITE 1
EUGENE, OR 97403

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

PATRICK T. KING
P.O. BOX 688
FREEDOM, CA 95019-0688

COPY MAILED

AUG 1 2002

OFFICE OF PETITIONS

In re Application of
John M. Callahan
Application No. 10/014,928
Filed: December 11, 2001
Attorney Docket No. NAN009.DIV2

ON PETITION

This is a decision on the petition filed May 29, 2002, to accord the above-identified application a filing date of December 11, 2001. The petition is properly treated under 37 CFR 1.53(e).

The application was filed on December 11, 2001. However, on March 18, 2002, Initial Patent Examination Division mailed a Notice informing petitioner that the specification was not present and that a filing date had not been accorded and the filing date would be the date of receipt of the complete specification as prescribed by 35 U.S.C. § 112.

In response, the present petition was filed alleging that twenty-nine (29) pages of Specification (including claims and abstract) were filed on December 11, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "twenty-nine (29) pages of Specification , including claims and abstract" on December 11, 2001.[1]

Upon review of the record, twenty-nine (29) pages of Specification, including claims and abstract, deposited on December 11, 2001 have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 11, 2001, included twenty-nine (29) pages of Specification, including claims and abstract, which were subsequently misplaced in the United Stated Patent and Trademark Office. Therefore, the application, including twenty-nine (29) pages of Specification, including claims and abstract, was complete on filing and entitled to a filing date of December 11, 2001.

---

[1]Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed postcard 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 postcard 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 postcard in the outgoing mail. "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 items listed thereon by the PTO." M.P.E.P. § 503.

In view of the above, the petition is **granted**.

The copy of the twenty-nine (29) pages of Specification, including claims and abstract, submitted with the petition will be used for examination purposes.

This application is being forwarded to the Office of Initial Patent Examination Division for further processing with a filing date of December 11, 2001, and for an indication that twenty-nine (29) pages of Specification, including claims and abstract were present on filing.

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

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

David Toren
SIDLEY AUSTIN BROWN & WOOD LLP
875 Third Avenue
New York NY 10022

COPY MAILED

APR 1 7 2002

OFFICE OF PETITIONS

In re Application of
Heinz Gerhard Kohn
Application No. 10/015,000
Filed: December 11, 2001
Attorney Docket No. DT-5085

DECISION GRANTING PETITION

This is a decision on the petition filed March 6, 2002, requesting that the above-identified application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure.

On December 11, 2001, the above-identified application was deposited. The application included, inter alia, 9 pages of specification including 8 claims, a transmittal letter (3 pages), the filing fee, and a certified copy of German Patent Application No. 10062890.7 to which a claim for foreign priority under 35 U.S.C. 119 is stated on the third page of the transmittal letter. No drawings other than the drawings contained in the German priority document accompanied the original application papers. Accordingly, on January 11, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings necessary for an understanding of the invention and an executed oath or declaration covering the drawings. The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on March 6, 2002, the present petition was filed. Petitioner requests that the application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure. In support, petitioner cites the fact that Figures 1-3 were present in the German priority document that accompanied the original application papers deposited in the Office on December 11, 2001.

One sheet of drawings containing Figures 1-3 are included in the German priority document that was present among the original application papers deposited on July 6, 2001. Accordingly, on petition, a copy of those drawings will be construed as the drawings necessary for this application for filing date purposes. In order to avoid any further processing delays, a copy of the sheet of drawings from the German priority document containing Figures 1-3 was produced at the Office and placed in the 10/015,000 file wrapper.

In view of the above, the petition is granted. The Office-produced copy of Figures 1-3 will be used for filing date purposes.

After mailing of this decision, the $130.00 petition fee will be charged to counsel's deposit account No. 50-0955 as authorized in the petition.

A review of the declaration reveals that it does not execute the application including the sheet of drawings containing Figures 1-3. Accordingly, a newly executed oath or declaration in compliance with 37 CFR 1.63, referencing the entire application (including the drawings), and identifying the specification to which it is directed is required. The $130.00 large entity surcharge under 37 CFR 1.16(e) is also required.

Applicant is given TWO MONTHS from the date of this decision to file the oath or declaration together with the surcharge as required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of the Initial Patent Examination Division.

The application is being returned to Office of Initial Patent Examination for:

(1) according a filing date of December 11, 2001, using the application papers filed December 11, 2001, and the Office-produced copy of the sheet of drawings containing Figures 1-3;
(2) an indication in the bibliographic data for this application that one (1) sheet of drawings containing Figures 1-3 were present on filing, and
(3) awaiting any oath or declaration in response to this decision.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred A. Silverberg

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

OIPE JC32
JUN 11 2002
PATENT & TRADEMARK OFFICE

3713

COPY OF PAPERS
ORIGINALLY FILED

DT-5085

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:		Heinz Gerhard Köhn
Serial No.:		10/015,000
Filed	:	December 11, 2001
For	:	LABORATORY DEVICE FOR TEMPERING REACTION SAMPLES

RECEIVED
JUN 25 2002
TC 3700 MAIL ROOM

Attention: Initial Patent Examination Division

Commissioner of Patents
Washington, D.C. 20231

RESPONSE TO DECISION GRANTING PETITION

Sir,

In response to the Decision Granting Petition dated **April 17, 2002,** applicant(s) submit herewith a duly executed Declaration.

The Commissioner is authorized to charge the late fee of **$ 130.00,** and any additional fees which may be required to Deposit Account No. **50-0955.**

As required, a copy of the Notice is attached.

Since all the missing parts have now been supplied, it is submitted that the application is now complete and in form for examination. Accordingly, such examination and prompt allowance are earnestly solicited.

Respectfully submitted,

By: _____
Paul Scott
Reg # 47,071

06/18/2002 MAHMED1 00000014 500955 10015000
01 FC:105 130.00 CH

Dated: June 6, 2002

SIDLEY AUSTIN BROWN & WOOD, LLP
Intellectual Property Group
875 Third Avenue
New York, NY 10022
(212) 906-2585

RECEIVED
AUG 2 2 2002
TC 1700

Encls:.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on: June 6, 2002

Stanley P. Scarlini

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OIPE JC32
JUN 11 2002
PATENT & TRADEMARK OFFICE

COPY OF PAPERS ORIGINALLY FILED

Declaration Due

PERIOD EXPIRES
June 17, 2002

Paper No. 4

David Toren
SIDLEY AUSTIN BROWN & WOOD LLP
875 Third Avenue
New York NY 10022

COPY MAILED

APR 17 2002

OFFICE OF PETITIONS

RECEIVED
JUN 25 2002
3700 MAIL ROOM

In re Application of
Heinz Gerhard Kohn
Application No. 10/015,000
Filed: December 11, 2001
Attorney Docket No. DT-5085

: DECISION GRANTING
: PETITION

This is a decision on the petition filed March 6, 2002, requesting that the above-identified application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure.

On December 11, 2001, the above-identified application was deposited. The application included, inter alia, 9 pages of specification including 8 claims, a transmittal letter (3 pages), the filing fee, and a certified copy of German Patent Application No. 10062890.7 to which a claim for foreign priority under 35 U.S.C. 119 is stated on the third page of the transmittal letter. No drawings other than the drawings contained in the German priority document accompanied the original application papers. Accordingly, on January 11, 2002, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings necessary for an understanding of the invention and an executed oath or declaration covering the drawings. The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on March 6, 2002, the present petition was filed. Petitioner requests that the application be accorded a filing date of December 11, 2001 with Figures 1-3 as part of the original disclosure. In support, petitioner cites the fact that Figures 1-3 were present in the German priority document that accompanied the original application papers deposited in the Office on December 11, 2001.

One sheet of drawings containing Figures 1-3 are included in the German priority document that was present among the original application papers deposited on July 6, 2001. Accordingly, on petition, a copy of those drawings will be construed as the drawings necessary for this application for filing date purposes. In order to avoid any further processing delays, a copy of the sheet of drawings from the German priority document containing Figures 1-3 was produced at the Office and placed in the 10/015,000 file wrapper.

RECEIVED
AUG 22 2002
TC 1700

In view of the above, the petition is granted. The Office-produced copy of Figures 1-3 will be used for filing date purposes.

After mailing of this decision, the $130.00 petition fee will be charged to counsel's deposit account No. 50-0955 as authorized in the petition.

A review of the declaration reveals that it does not execute the application including the sheet of drawings containing Figures 1-3. Accordingly, a newly executed oath or declaration in compliance with 37 CFR 1.63, referencing the entire application (including the drawings), and identifying the specification to which it is directed is required. The $130.00 large entity surcharge under 37 CFR 1.16(e) is also required.

Applicant is given TWO MONTHS from the date of this decision to file the oath or declaration together with the surcharge as required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136(a). The response should be directed to the attention of the Initial Patent Examination Division.

The application is being returned to Office of Initial Patent Examination for:

(1) according a filing date of December 11, 2001, using the application papers filed December 11, 2001, and the Office-produced copy of the sheet of drawings containing Figures 1-3;

(2) an indication in the bibliographic data for this application that one (1) sheet of drawings containing Figures 1-3 were present on filing, and

(3) awaiting any oath or declaration in response to this decision.

Any inquiries related to this decision should be directed to Legal Advisor James Engel at (703) 308-5106.

Fred A. Silverberg

Fred A. Silverberg
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

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

COPY MAILED

MAY 2 0 2002

OFFICE OF PETITIONS

SIDLEY AUSTIN BROWN & WOOD LLP
875 Third Avenue
New York, NY 10022

In re Application of
Tennstedt, et al.
Application No. 10,015,001
Filed: December 11, 2001
Attorney Docket No. 1473/44221

DECISION GRANTING PETITION

This a decision on the petition filed February 19, 2002, requesting that the above-referenced application be accorded a filing date of December 11, 2001, with drawings of Figures 1-11 as part of the original disclosure.

The petition is GRANTED.

The application was filed on December 11, 2001. The Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" on January 15, 2002, indicating that the application was deposited without drawings. A two month period for reply was set.

In the instant petition, petitioner maintains that a German priority document was filed on December 11, 2001. A review of the priority document filed December 11, 2001, reveals that it does include five sheets of drawings containing Figures 1-11. Accordingly, on petition, the drawings of Figures 1-11 in the priority document will be construed as the drawings for this application for filing date purposes.

The application file is being forwarded to the Office of Initial Patent Examination for reprocessing with a filing date of December 11, 2001, using the five sheets of drawings containing Figures 1-11 in the German priority document and indication on the bibliographic data sheet that five sheets of drawings were submitted on filing.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703)305-0010.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

Paul J. Esatto, Jr.
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

COPY MAILED

JUL 03 2002

OFFICE OF PETITIONS

In re Application of
Bush
Application No. 10/015,025
Filed: December 11, 2001
Attorney Docket No.: 14876

ON PETITION

This is a decision on the petition filed April 5, 2002 requesting that the above-identified application be granted a filing date of December 11, 2001.

The application was filed December 11, 2001. On February 22, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") advising applicant that the application had been accorded a filing date but that Figure 5 described in the specification appeared to have been omitted from the application.

In response, petitioner argues that the application as deposited included Figure 5 and has included as proof of receipt of Figure 5 a return postcard date stamped December 11, 2001 by the Office acknowledging receipt of five (5) sheets of drawings. Petitioner has also provided a copy of Figure 5 purportedly filed December 11, 2001.

The original Figure 5 submitted with the application papers has not been located. However, in view of the evidence presented, the Notice mailed February 22, 2002 is hereby **WITHDRAWN** and the petition to accord the application a filing date of December 11, 2001 is **GRANTED**.

Since the original Figure 5 cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No fee is due in connection with this matter. Petitioner may request a refund of the previously submitted petition fee of $130.00 by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 11, 2001.

Telephone inquiries related to this decision may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHAPIRO & DUPONT LLP
233 WILSHIRE BOULEVARD, SUITE 700
SANTA MONICA, CA 90401

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Patent No. 6,756,296	:	
Issue Date: June 29, 2004	:	
Application No. 10/015,063	:	ON PETITION
Filed: December 11, 2001	:	
Attorney Docket No. 0175.0005	:	

This is a decision on the request, filed September 9, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to include Hewlett-Packard Development Company, L.P., of Houston, TX, as an assignee on the front page of the above-identified patent by way of a Certificate of Correction.[2]

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

[2] The Office sincerely apologizes for the delay in replying to this request and any inconvenience caused petitioner by this delay.

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/23/2010

Applicant	: Hirohiko Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7574475	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/015,072	: OF WYETH
Filed	: 12/11/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 05/17/2010

Applicant : Hirohiko Yamazaki
Patent Number : 7574475
Issue Date : 08/11/2009
Application No : 10/015,072
Filed : 12/11/2001

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **1603** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of
Turner, et al.
Application No. 10/015,077
Filed: October 26, 2001
Attorney Docket No.01-40169-US
For: SYSTEM AND METHOD FOR USING AN INSTANT MESSAGING ENVIRONMENT TO ESTABLISH A HOSTED APPLICATION SHARING SESSION

DECISION ON PETITION

This is a decision on the petition, filed August 27, 2002, requesting that pages 19, 20, 21, 22, and 23 of the specification be accorded a filing date of October 26, 2001.

The application was filed on October 26, 2001. On June 27, 2002, the Office of Initial Patent Examination mailed a " Notice of Omitted Items in a Nonprovisional Application"(Notice) informing petitioners that pages 19, 20, 21, 22, and 23 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request the October 26, 2001 filing date for pages 19, 20, 21, 22, and 23 on the basis that the allegedly omitted pages were received in the Patent and Trademark Office (PTO) on October 26, 2001. In support, the petition is accompanied by (1) a declaration of the attorney of record who reviewed the application and attests to the fact that it was complete when filed, (2) a copy of applicants' postcard receipt **without** a date stamp from the Office, and (3) applicants' Express Mail label with a USPS postmark of October 26, 2001.

The declaration by counsel submitted with the petition states without equivocation or doubt that he checked the assembled application papers in the Express Mail envelope to determine that the application included all pages of the specification.

The Office file is the official record of what was mailed by Express Mail or filed on October 26, 2001. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. In this regard, declarations by individuals involved in the preparation and mailing of the original application reciting their personal recollection or belief of what was contained in the application that they reviewed and/or mailed are no more persuasive of what was actually mailed than the contents of the official

record. Such declarations, as in this case, are usually made months after the actual events recited. In this case, the declaration supplied on August 27, 2002 was made 10 months after the application was actually mailed.

It is for this reason that the Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, 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. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

To reiterate, a properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. Unfortunately, petitioners have not provided the date-stamped return postcard. Therefore, the Office has no way of verifying if the items listed thereon were filed on October 26, 2001.

Regarding petitioners' Express Mail argument, petitioners are advised that the provisions of 37 CFR 1.10(e) cannot be utilized to prove the contents of a mailing. MPEP 513 states, "Where there is a dispute as to the contents of correspondence submitted to the Office,...an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s)... were filed in the Office with such correspondence. Rather, where the records of the Office (e.g. the file of the application) contain any document(s)... corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s)... purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s).. that is not among the official records of the Office."

As stated above, the postcard submitted in the instant case is not date stamped and therefore cannot be used to prove the October 26, 2001 filing date.

Since pages 19, 20, 21, 22, and 23 were not a part of the papers filed on October 26, 2001, the application cannot be accorded the October 26, 2001 filing date with those pages as part of the original disclosure of this application.

The petition is dismissed.

Of course, applicant may submit pages 19, 20, 21, 22, and 23 in the form of an amendment (see 37 CFR 1.121) for consideration by the examiner to determine whether or not the pages contain new matter compared to the original specification filed on October 26, 2001.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001. Pages 19, 20, 21, 22, and 23 submitted with the instant petition will **not** be considered part of the original filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
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

COPY MAILED Paper No. 7

SEP 25 2003

OFFICE OF PETITIONS

HALE AND DORR, LLP
60 STATE STREET
BOSTON MA 02109

In re Application of
Jonathan J. Bernstein et al
Application No. 10/015,086
Filed: December 11, 2001
Attorney Docket No. 112222.128

ON PETITION

This is a decision on the petition, filed September 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 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 1765 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

LEONARD DUFFY
P.O. BOX 99
HINESBURG, VT 05461

COPY MAILED

DEC 3 0 2003

OFFICE OF PETITIONS

In re Application of
Leonard Arnold Duffy
Application No. 10/015,087
Filed: October 19, 2001
Attorney Docket No. None

DECISION ON PETITION

This is a decision on the petition filed June 19, 2003, under 37 CFR 1.78(a)(6) requesting acceptance of an unintentionally delayed claim for benefit of the prior-filed provisional applications under 35 U.S.C. 119(e) and the petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.78(a)(6) "as that rule operates in conjunction with 37 C.F.R. § 1.17(t)."

The petition considered under 37 CFR 1.78(a)(3) is **dismissed**.

The petition considered under 37 CFR 1.183 is **dismissed**.

Any request for reconsideration of this decision must be filed within two months from the mailing date of this decision. *Note* 37 CFR 1.181(f).

WITH RESPECT TO THE PETITION UNDER 37 CFR 1.78(a)(6):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition lacks item (2) above.

Accordingly any renewed petition must clearly be captioned for relief under 37 CFR 1.78(a)(6) and either include the fee or clearly authorize its charge to a deposit account.

WITH RESPECT TO WAIVER OF THE SURCHARGE REQUIRED BY 37 CFR 1.78(A)(3)(ii) AND 37 CFR 1.17(t).

Petitioner requests under 37 CFR 1.183 waiver of the applicable surcharge under 37 CFR 1.78(a)(6)(ii) for the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 119(e) as set forth in 37 C.F.R. § 1.17(t). In this regard, petitioner states that priority status was requested by including the following paragraph on the first page of the application, after the title and immediately before the beginning paragraph of the specification entitled "Field of Invention":

> "Ref Provisional patent applications
> 60/228,780 05/05/2001
> 60/241,707 10/19/2000"

However, a typographical error occurred in that provisional Application No. 60/228,780 should have read 60/288,780. Additionally, there was no clear priority claim to the provisional applications.

37 CFR 1.183 states that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

OPINION

In order to grant any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

The circumstances of this case do not demonstrate an extraordinary situation, much less one where justice requires waiver of the rules. The failure to timely submit a proper claim for priority of the earlier applications within the time period set forth in 37 CFR 1.78(a)(ii) was a circumstance entirely within petitioner's control, and could have been avoided by the exercise of reasonable care and diligence. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Furthermore, since the USPTO did not cause or contribute to petitioner's filing delay, this case is even further removed from consideration as one where "justice requires" equitable relief. See Helfgott & Karras, P.C. v. Dickinson, 209 F.3d 1328, 54 USPQ2d 1425 (Fed. Cir. 2000).

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. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (Counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule). Rather, as petitioner failed to comply with the provisions of 37 CFR 1.78(a)(5)(i), (ii) and (iii), this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand	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 Karen Creasy at (703) 305-8859.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

COPY MAILED

SEP 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Hasegawa	:	
Application No.10/015,091	:	DECISION ON APPLICATION
Filed: October 23, 2001	:	FOR
Attorney Docket No. 9281-4223	:	PATENT TERM ADJUSTMENT
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 2, 2005. Applicants request correction of the patent term adjustment to add 250 days based on the Office taking in excess of three years to issue the patent[1].

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated

[1] Otherwise, applicants agree with the initial determination of patent term adjustment at the time of the mailing of the notice of allowance.

in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
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
Washington, D.C. 20231
www.uspto.gov

Paper No. 14

COPY MAILED

MAY 19 2003

OFFICE OF PETITIONS

David L Newman Esq
Method Electronics Inc
7444 West Wilson Avenue
Chicago IL 60656

In re Application of
Gilliland, Torres, Anguelov, and Ward
Application No. 10/015,103
Filed: December 11, 2001
For: Automatic power control and laser slope efficiency normalizing circuit

DECISION DISMISSING PETITION

This is in response to the Petition to Treat Declaration and Assignment as Being Signed by All Inventors Pursuant to 37 CFR 1.47, filed June 27, 2002, which is being treated as a petition under 37 CFR 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition under 37 CFR 1.47 is **dismissed** as inappropriate.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition under 37 CFR 1.47, and Petitions Under 37 CFR 1.48(a) and 1.183", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Address the renewed petitions to Petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on December 11, 2001, with a List of Inventor's Names that listed five inventors. Also filed were two Declarations, the first listed three inventors, and the second listed one inventor. The fifth inventor identified in the List of Inventor's Names, David Schie, was not included on any Declaration filed with the Office.

A Request for Corrected Filing Receipt and a petition under 37 CFR 1.47 were filed on June 27, 2002. The Request for Corrected Filing Receipt requested the addition of inventor Schie to the application and requested a corrected Filing Receipt reflecting this addition.

On August 28, 2002, a Response to Request for Corrected Filing Receipt was mailed to Petitioner, informing Petitioner that changes made after submission of the executed oath/declaration to the inventor information other than correction of typographical errors must be submitted in the form of a substitute declaration, and that the change of inventorship requires a petition under 37 CFR 1.48.

This Decision addresses the petition under 37 CFR 1.47 and reiterates that a petition under 37 CFR 1.48 is required.

A petition under 37 CFR 1.47 is appropriate where the inventive entity has been established and when an inventor (37 CFR 1.47(a)), or all of the inventors (37 CFR .147(b)), refuse to sign the declaration or cannot be reached. A petition under 37 CFR 1.48(a) is required to correct the inventorship in an application after the oath/declaration has been filed and the inventive entity was set forth in error. Here, Applicant filed an oath/declaration that set forth three inventors, and a second oath/declaration setting forth a fourth inventor. The List of Inventor's Names is not an oath or declaration as required by 37 CFR 1.63, and is therefore not an acceptable method of identifying each inventor as required by 37 CFR 1.63(a)(2). The oath or declaration as filed, at best, identified four inventors.

Accordingly, the inventive entity was set forth, albeit in error as only four inventors were listed, and a petition under 37 CFR 1.48(a) is required to correct the inventorship. However, for reasons stated *supra*, a grantable petition under 37 CFR 1.48 requires an oath/declaration as permitted by 37 CFR 1.47. With the petition under 37 CFR 1.47, Petitioner has failed to provide an acceptable oath or declaration and thus the petition under 37 CFR 1.47 is not grantable.

<u>A Petition under 37 CFR 1.48(a)</u>

A grantable petition under 37 CFR 1.48(a) requires: (1) a request to correct inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or 1.47; (4) the processing fee set forth in § 1.17(I); and (5) if an assignment has been executed by any of the named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

As to item (2), in view of Petitioner's inability to obtain the signature of named inventors, Petitioner may be unable to comply with item (2) and obtain a statement from each person being added that the error in inventorship occurred without deceptive intention on his or her part. In that situation, petitioner must

request a waiver of 37 CFR 1.48(a)(2) by filing a petition under 37 CFR 1.183. Support for the waiver of 37 CFR 1.48(a)(2) would be in the petition under 37 CFR 1.47(a), where the inventor refuses to join the application. A petition under 37 CFR 1.183 would be in addition to the petition under 37 CFR 1.48(a).

As to item (3), Petitioner must submit an oath or declaration permitted by 37 CFR 1.47, which means Petitioner must also satisfy the requirements of a grantable petition under 37 CFR 1.47[1].

<u>An oath or declaration as permitted by 37 CFR 1.47(a)</u>

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 to item (1), petitioner has failed to provide proof that inventor Schie refuses to sign the oath/declaration. Where it is alleged that an applicant refuses to join an application, the applicant must establish that the nonsigning inventor was presented with the application for signature. The Manual of Patent Examining Procedure ("MPEP") states that

> 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. A copy of the application papers should be sent to *the last known address of the nonsigning inventor*, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. Emphasis supplied.

MPEP 409.03(d).

Therefore, where it is alleged that an inventor refuses to join an application, the MPEP requires that a copy of the application is sent to the last known address of the nonsigning inventor(s). The last known address should be the last known residence at which the inventor customarily receives mail. See, MPEP

---

[1]Petitioner is unable to submit an oath or declaration as required by 37 CFR 1.63, and 37 CFR 1.42 and 1.43 are inapposite.

409.03(e) and 605.03.

As to item (2), Petitioner has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116. A review of the declarations filed with the application reveals that one lists only three inventors, and the other lists only one inventor. As a result, we have two oaths or declarations for this application, each listing different inventors. As required by 37 CFR 1.63, the (single) oath or declaration must identify each inventor. "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor *together with each of the other inventors indicating them by name.*" MPEP § 602. (Emphasis supplied).

Further to this, the Manual for Patent Examining Procedure ("MPEP"), section 409.03(a) provides:

> All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors *with the signature block of the nonsigning inventor(s) left blank* may be treated as having been signed by all the available inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

MPEP 409.03(a).

Multiple copies of the declaration may be filed; however, each declaration must list all inventors.

In sum, petitioner must:

(1) file a grantable petition under 37 CFR 1.48(a), including a declaration as permitted by 37 CFR 1.47, which means that Petitioner must;

(2) satisfy the requirements for a grantable petition under 37 CFR 1.47(a). To satisfy the deficiency, noted <u>infra</u>, petitioner must submit a properly executed oath or declaration as allowed by 37 CFR 1.47, listing all available inventors, and providing documentary evidence, based upon first-hand knowledge, of any inventors refusal to join the application.

Where petitioner is unable to comply with 37 CFR 1.48(a)(2), petitioner must request a waiver, which requires;

(3) a petition under 37 CFR 1.183 requesting waiver of 37 CFR

1.48(a)(2)(support for which is found in the grantable petition under 37 CFR 1.47(a)).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3513

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

Paper No. 4

David L Newman, Esq.
Method Electronics Inc
7444 West Wilson Avenue
Chicago, IL 60656

COPY MAILED
JUL 21 2004
OFFICE OF PETITIONS

In re Application of :
Gilliland, Torres, :
Angelov, Schie and Ward : DECISION ON PETITION
Application No. 10/015,103 :
Filed: December 11, 2001 :
For: AUTOMATIC POWER CONTROL :
AND LASER EFFICIENCY :
NORMALIZONG CIRCUIT :

This is in response to a Request for Reconsideration of Petition under 37 CFR §§ 1.183 and 1.48, filed October 21, 2003 (Certificate of Mailing dated October 16, 2003, to waive the requirement of 37 CFR 1.48(a)(2) and (a)(3) and correct the inventorship in the above-identified application.

The petition is **dismissed**.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 and 1.48", 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).

Background

The above-identified application was filed on December 11, 2001, and included a "List of Inventor's Names" that listed five (5) inventors. Also filed were two (2) Declarations. The first Declaration listed three (3) inventors, the second Declaration listed one (1) inventor. The fifth inventor listed on the "List of Inventor's Names", was not included on any Declaration filed with this Office.

A Request for Corrected Filing Receipt and Petition under 37 CFR 1.47 were filed on June 27, 2002. The Request for Corrected Filing Receipt requested the addition of inventor Schie to the application and requested a corrected filing receipt reflecting this addition.

On August 28, 2002, a Response to the Request for Corrected Filing Receipt was mailed to Applicant, informing him that a petition under 37 CFR 1.48 was required to effect a change of the inventive entity.

Applicant subsequently filed a Petition to Treat Declaration and Assignment as Being Signed by All Inventors Pursuant to 37 CFR §1.47, on June 27, 2002. That petition was dismissed as inappropriate in a Decision mailed May 19, 2003. The Decision dismissing the petition required a petition under 37 CFR 1.48. Applicant was informed that a grantable petition under 37 CFR 1.48 would require waiver of 37 CFR 1.48(a)(2)(which requires a statement from each person being added that the error occurred without deceptive intent), and 37 CFR 1.48(a)(3) (which requires an oath or declaration executed by all inventors). The waiver under 37 CFR 1.48(a)(2) was required because the inventor sought to be added refused to join in the application or execute any documents associated therewith, and the waiver under 37 CFR 1.48(a)(3) was required because four (4) of the five (5) inventors were no longer employed with the Assignee, and their signatures would be difficult to obtain. Under 37 CFR 1.48(a)(3), an oath or Declaration which satisfies 37 CFR 1.47(a) is permitted to satisfy 37 CFR 1.48(a)(3).

Applicant was provided with the requirements of a grantable petition under 37 CFR 1.47(a), and informed that the oath or declaration as permitted under 37 CFR 1.47(a) must be executed by the available inventors.

<u>The instant Request for Reconsideration</u>

With the instant Request for Reconsideration, Applicant files Declarations listing all five (5) inventors; however, the Declarations are unexecuted.

Applicant also states in the instant Request for Reconsideration, that inventors Schie and Ward cannot be found or reached after a search "through local public listings

proximate to their last known address". *Request for Reconsideration* at p.2.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) and (2) as set forth above.

Analysis

As to item (1), if an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. 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 to locate the inventor. (Emphasis supplied). *See*, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Here, Applicant avers that a search "through local public listings proximate to their last known address" was performed; however, Applicant has failed to file any copies of search results or a statement of facts that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor(s).

As to item (2), Applicant has failed to provide an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116.

Here, because inventor Torres is available to execute the Declaration, his signature is required and will be considered as

inventor Torres making application on his own behalf, and on behalf of the nonsigning inventors.

A properly executed oath or declaration is required.

Alternative Approach

A review of the application history reveals that the above-identified application is a continuation of application 09/498,221, filed February 4, 2000, and that the inventive entity is the same as that as alleged in the instant application. **Applicant may, as an alternative**, file a copy of the oath or declaration from the parent application, and a copy of the rule 47 petition DECISION that was granted in the parent application. *Accord* 37 CFR 1.63.

The filing of the oath or declaration from the parent application, and a copy of the rule 47 petition decision that was granted in the parent application would satisfy 37 CFR 1.48(a)(3), and provide the basis for waiver of 37 CFR 1.48(a)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202-3113

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

JAN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Viji Rajarajan, et al.	:	
Application No. 10/015,129	:	DECISION DISMISSING PETITION
Filed: December 11, 2001	:	UNDER 37 CFR 1.313(a)
Attorney Docket No.	:	
MS167419.2/40062.151USU1		

This is a decision on the petition under 37 CFR 1.313(a), filed January 24, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on November 30, 2006, with the issue fee being due on or before February 28 2007. The Office records fail to disclose that the issue fee in this case has been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to April Wise at (571) 272-1642.

The matter is being referred to Technology Center AU 2161 for appropriate processing of the RCE filed January 24, 2007, and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

In re Application of
Saville
Application No. 10/015,143
Filed: December 10, 2001
Docket No.: 47451/VGG/N123

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2004, seeking revival of the above-identified application.

The petition is **granted**.

This application became expressly abandoned on June 24, 2003, upon the recognition of the letter of express abandonment signed by the above-named inventor requesting that the above-identified application be expressly abandoned as of the filing date of that communication. The letter of express abandonment was recognized by an appropriate USPTO official in the acknowledgment of express abandonment mailed February 22, 2004.

Petitioner's contention that, given that this application was assigned to Nor'East Miniature Roses Inc., the named inventor was "without authority" to sign the letter of express abandonment, is not well taken. The controlling regulation, 37 CFR 1.138 specifically states that the inventor, per 37 CFR 1.33(b)(4), may sign a letter of express abandonment except where the assignee of the entire interest has intervened as permitted by 37 CFR 3.71. Note that 37 CFR 1.33(b) indicates that the assignee or, in the disjunctive, the inventor, may sign papers such as an express abandonment. Furthermore, the mere recordation of an assignment with the USPTO is not an intervention by the assignee to the exclusion of the named inventor within the meaning of 37 CFR 3.71. See MPEP 324. Accordingly, as the assignee had not intervened in this application at the time the letter of express abandonment was filed, the named inventor had the requisite authority under the rules of practice to expressly abandon this application. Nevertheless, the assignee correctly points to its continuance of prosecution and, as such, its request that this application be revived and passed to issue will be favorably treated.

Inquiries related to this decision may be made to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 7

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

COPY MAILED

FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
John Saare, et al.
Application No. 10/015,177
Filed: November 16, 2001
Attorney Docket No. SUN-P6490NP US/NC

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit substitute drawings in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed January 17, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on March 18, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

COPY MAILED

SEP 24 2002

OFFICE OF PETITIONS

In re Application of
Quibell, et al.
Application No. 10/015,186
Filed: November 16, 2001
Attorney Docket No. 1718-0195P

DECISION ON PETITION

This is a decision on the "... Petition for Inclusion into the Application of Allegedly 'Omitted' Material," filed July 8, 2002 (certificate of mailing July 3, 2002). Petitioner requests that the application be accorded a filing date of November 16, 2001, with page 49 of the specification as a part of the original application disclosure.

Application papers in the above-identified application were filed on November 16, 2001. However, on May 3, 2002, the Office of Initial Patent Examination mailed applicants a "Notice to File Missing Parts of Application." Applicants were thereby notified that the application papers had been accorded a filing date; however, page 49 of the specification appeared to have been omitted. In addition, applicants were required to submit the following missing items: an oath or declaration; the late surcharge under § 1.16(e); a statement regarding the sequence listing; and a substitute computer readable form (CRF) of the sequence listing and statement.

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that page 49 was properly submitted with the original application papers, and should be included in the application as originally filed, with a filing date of November 16, 2001. In evidence thereof, petitioners submitted the following items, described as: 1) a copy of the transmittal letter indicating that a Specification consisting of one hundred sixty-six (166) pages was filed on November 16, 2001; 2) the Express Mail certificate; 3) the Express Mail label; and 4) a copy of the Specification as filed which included page 49. Alternatively, petitioners assert that if the evidence submitted is deemed insufficient to establish that page 49 was filed with the original application papers that applicants propose to file an amendment which adds the same text based upon the incorporation by reference of PCT/GB00/0184 (published WO 00/69855).

The application file is the Official record of what was received in the Office in an application. A review of the instant application file reveals that page 49 was not among the papers filed on November 16, 2001, as page 49 is not present in the application file.

Petitioner has not submitted persuasive evidence to support a claim that page 49 was among the papers filed on November 16, 2001 (e.g., itemized postcard receipt), but not present in the application file because it was misplaced in the Office. Neither a Certificate of Express Mailing, an Express Mail mailing label nor an application transmittal evidences receipt in the Office of

the specific components of an application. A postcard receipt serves as *prima facie* evidence of receipt in the Office of the items properly identified thereon because the Office reviews the application for the presence of those items. See MPEP 503. However, neither a Certificate of Express Mailing nor an Express Mail mailing label nor an application transmittal is subject to such review by the Office. Accordingly, neither can be relied on to establish receipt in the Office of a specific paper listed thereon but not present in the application file.

Accordingly, the petition is **DISMISSED**. The request for refund of the petition fee is denied. The petition fee is required, since the petition was not necessary to correct any error on the part of the Office.

Nonetheless, petitioners may seek to amend the application to include page 49 of the specification. The application transmittal included an incorporation by reference of the entire contents of PCT International Application No. PCT/GB00/01894. MPEP 201.06(c) states that:

> If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need not respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.01(d) and § 601.01(g).

Thus, a preliminary amendment to amend the specification to include page 49 of the specification should be filed prior to the first Office action on the merits to avoid further delay in the prosecution of this application. This amendment will be considered by the primary examiner.

The application is being returned to the Office of Initial Patent Examination for completion of pre-examination processing, with a filing date of November 16, 2001, using the papers received in the Office on that date. Receipt of the responses filed August 12, 2002, to the "Notice to File Missing Parts of Application" mailed May 3, 2002, is acknowledged.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

E. Shirene Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

COPY MAILED

JAN 0 6 2003

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of
Quibell, et al.
Application No. 10/015,186
Filed: November 16, 2001
Attorney Docket No. 1718-0195P

DECISION ON PETITION

This is a decision on the renewed "... Petition for Inclusion into the Application of Allegedly 'Omitted' Material," filed October 29, 2002. Petitioner requests that the application be accorded a filing date of November 16, 2001, with page 49 of the specification as a part of the original application disclosure. Application papers in the above-identified application were filed on November 16, 2001. However, on May 3, 2002, the Office of Initial Patent Examination mailed applicants a "Notice to File Missing Parts of Application." Applicants were thereby notified *inter alia* that the application papers had been accorded a filing date; however, page 49 of the specification appeared to have been omitted. In response, applicants timely filed the initial petition under § 1.53, asserting that page 49 was properly submitted with the original application papers, and should be included in the application as originally filed, with a filing date of November 16, 2001.

The petition was dismissed to the extent that page 49 was not shown to have been among the original application papers filed November 16, 2001. However, by virtue of a proper incorporation by reference statement, applicants were advised that they may seek by preliminary amendment to amend the application to include page 49 of the specification.

In response, applicants filed the instant renewed petition, along with a copy of the specification as petitioner maintains it was originally filed. Furthermore, applicants state that they have now received the stamped and dated postcard from the United States Patent and Trademark Office, and submit this postcard in evidence that a specification consisting of 166 pages was received in the Office.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. **Each separate component should be specifically and properly itemized on the postcard.** Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 16, 2001, and the papers submitted therewith were assigned application No. 10/015,186; 2) it specifically identifies a "specification consisting of 166 pages" as being filed and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard.

The postcard has been reviewed and it has been concluded that the identification on the postcard, considering the specific contents of the filing, is specific enough to identify the pages of specification being submitted. The filing includes pages of specification each numbered from page 1 through 166 and there are no other such numbered pages among the application papers filed. Thus, the postcard serves as persuasive evidence that 166 pages of specification were filed on November 16, 2001. The pages of specification already considered received in the Office on November 16, 2001, were reviewed along with the 166 pages of specification submitted on petition. The pages of specification already considered received in the Office along with page 49 of the resubmitted specification constitute the item described on the postcard receipt as "specification consisting of 166 pages." Thus, petitioner has shown that page 49 was among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fees[1] are being refunded to Deposit Account No. 02-2448, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a **filing date of November 16, 2001**, using the application papers received in the Office and presently accorded that date, and page 49 of the specification resubmitted on petition filed October 29, 2002;
- indication in Office records that page 49 of the specification was present in the application on filing; and
- processing of the responses filed August 12, 2002, to the "Notice to File Missing Parts of Application" mailed May 3, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for R Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] $130 was charged to petitioner's Deposit Account both on initial filing of the petition and renewed filing of the petition. In this instance, refund of both fees is warranted.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

WAGNER, MURABITO & HAO LLP
THIRD FLOOR
TWO NORTH MARKET STREET
SAN JOSE, CA 95113

COPY MAILED

JAN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
John Saare, et al. :
Application No. 10/015,192 :
Filed: November 16, 2001 :
Attorney Docket No. SUN-P6492NP US/NC :

ON PETITION

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 September 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 November 21, 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.

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LSI LOGIC CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

COPY MAILED

DEC 22 2005

OFFICE OF PETITIONS

In re Application of	:	
James S. Koford, et al.	:	
Application No. 10/015,194	:	ON PETITION
Filed: November 20, 2001	:	
Attorney Docket No. 01-390	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 10, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 12, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 11

CONLEY ROSE, P.C.
P. O. BOX 3267
HOUSTON TX 77253-3267

COPY MAILED

MAY 16 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael Allen Siracki	:	
Application No. 10/015,199	:	DECISION GRANTING
Filed: December 11, 2001	:	PETITION
Atty Docket No. 1030-15203	:	

This is a decision on the "Petition to Correct Correspondence Filing Date For "Date-In" Incorrectly Entered or Omitted on Express Mail Label (37 C.F.R. 1.10(d))," filed May 13, 2003, requesting that the above-identified nonprovisional application be accorded a filing date of December 11, 2001, rather than the presently accorded filing date of October 11, 2001. This petition is properly treated under § 1.10(c)[1]. Furthermore, the petition includes *prima facie* evidence in the form of a properly itemized date stamped return postcard establishing that the petition should be considered timely filed on February 27, 2002[2].

Applicants maintain that the above-identified application was deposited in the Express Mail Post Office to Addressee service of the USPS, pursuant to § 1.10 on December 11, 2001, and thus, is entitled to a filing date of December 11, 2001. In support thereof, applicant submits *inter alia*:

- a "statement[3]" by patent attorney Marcella D. Watkins as to when the discrepancy in filing date was discovered and to show that the petition was filed promptly thereafter;
- a true copy of the "Express Mail Post Office to Addressee" mailing label No. EV 051432711 US; and

---

[1] § 1.10(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, ...

[2] A review of the PALM history of the application reveals that the petition fee was charged March 2002, with a mail room date of February 27, 2002.

[3] There is no separate statement by attorney Watkins specifically stating when the discrepancy was discovered. Nonetheless, on petition at para 4, attorney Watkins indicates that the discrepancy was discovered upon receipt of their return postcard (on or about January 2, 2002 according to the stamp on the postcard) . The petition was filed promptly thereafter.

- a true copy of the Patent Application Transmittal Letter, bearing "Express Mail" mailing label number EL 051432711 US thereon.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal submitted is a true copy of the transmittal present in the application file, and both bear the "Express Mail" mailing label number. Thus, petitioner has shown that this number was placed on the correspondence prior to the original mailing date. The "date-in" on the "Express Mail" mailing label appears to be December 11, 2001. In addition, the label bears an official USPS date stamp of December 11, 2001. In addition, petitioner has submitted a copy of their return postcard receipt, bearing a date of receipt stamp of December 11, 2001 to the papers assigned application No. 10/015,199.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary. The petition fee has been refunded to Deposit Account No. 03-2769, as authorized.

The application is being returned to the Office of Initial Patent Examination for **correction of the filing date to December 11, 2002,** and **issuance of a corrected filing receipt**.

Telephone inquiries specific to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson

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

Paper No. 4

Dewan and Lally, LLP
P. O. Box 684749
Austin, TX 78768-4749

COPY MAILED

JUN 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Rawson Freeman	:	
Application No. 10/015,225	:	DECISION GRANTING
Filed: December 13, 2001	:	PETITION
Attorney Docket No. AUS920010796US1	:	

This is a decision on the petition filed May 13, 2002, requesting that the above-identified application be accorded a filing date of December 13, 2001, rather than the presently accorded date of December 17, 2001. The petition is properly treated as a petition under 37 CFR 1.10(c).

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 13, 2001 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ET420197679US showing an illegible handwritten "date-in." The same Express Mail receipt number appears on the original transmittal for Patent Application, which includes the Express Mail label number. Additionally, petitioner has provided other evidence, the USPS postmark date of December 13, 2001 and the Internet USPS Express Mail Tracking and Delivery Confirmation, which discloses that the package was, in fact, deposited on December 13, 2001.

In view of the USPS receipt stamp of December 13, 2001, appearing on the same Express Mail label, it is concluded that the application was deposited as "Express Mail" with the USPS on December 13, 2001.

The petition is **GRANTED**.

A corrected filing receipt showing the filing date of December 13, 2001, of the instant application accompanies the decision.

This application file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries concerning this decision may be directed to Marianne Morgan at (703) 306-3475.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/015,226	12/13/2001	3621	956	DE920000116US1	5	32	3

CONFIRMATION NO. 6251

CORRECTED FILING RECEIPT

OC000000014339609

Jeffrey S. LaBaw
International Business Machines
Intellectual Property Law
11400 Burnett Road
Austin, TX 78758

Date Mailed: 11/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Matthias Stefan Bierbrauer, Stuttgart, GERMANY;
Daniel Haenle, Stuttgart, GERMANY;

Assignment For Published Patent Application

INTERNATIONAL BUSINESS MACHINES CORPORATION, ARMONK, NY

Power of Attorney:

Joseph Redmond Jr–18753
James Barksdale–24091
Stanley Green–24351
Douglas Lefeve–26193
JOHN E. HOEL–26279
John Henderson Jr.–26907
Christopher Hughes–26914
Robert M. Carwell–28499
Thomas Tyson–28543
Casimer Salys–28900

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 00127582.5 12/15/2000

If Required, Foreign Filing License Granted: 01/22/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/015,226

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for document or content off-loading to a document repository

Preliminary Class

705

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 03 2007

OFFICE OF PETITIONS

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

In re Application of :
Dietz et al. :
Application No. 10/015,235 :
Filed: 12-13-2001 :
Attorney Docket No. AUS920010924US1 :

DECISION ON PETITION

This is a decision on the petition filed June 15, 2007, to withdraw the holding of abandonment for the above-identified application.

On September 5, 2006, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on December 6, 2006. A Notice of Abandonment was mailed on April 6, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the nonfinal Office Action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

The Office acknowledges receipt of the response to the nonfinal Office action submitted with the present petition.

This matter is being referred to Technology Center Art Unit 2173.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FREDERICK W GIBB III
GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

COPY MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Hageman, et al.	:	
Application No. 10/015,256	:	ON PETITION
Filed: December 13, 2001	:	
Attorney Docket No. YOR9-2001-0721-US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 6, 2009

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 4, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 5, 2009. The Office mailed a Notice of Abandonment on February 27, 2009.

To establish non-receipt of an Office action, a petitioner:

> 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.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has not submitted a copy of a master docket record showing all his replies docketed for a due date of February 4, 2009, nor has petitioner stated that such a record does not exist. Rather, petitioner has only submitted a copy of the docket records for the instant application, together with a copy of an incoming mail log. If no such master docket report exists, petitioner should so state on renewed petition.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing

---

[1] MPEP 711.03(c).

the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FREDERICK W GIBB III
GIBB INTELLECTUAL PROPERTY LAW FIRM, LLC
2568-A RIVA ROAD
SUITE 304
ANNAPOLIS MD 21401

COPY MAILED
AUG 10 2009
OFFICE OF PETITIONS

In re Application of	:	
Hageman, et al.	:	
Application No. 10/015,256	:	ON PETITION
Filed: December 13, 2001	:	
Attorney Docket No. YOR9-2001-0721-US1	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed April 30, 2009

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 4, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 5, 2009. The Office mailed a Notice of Abandonment on February 27, 2009. Applicants filed a petition to withdraw the holding of abandonment on March 6, 2009, stating that they didn't received the Notice of Allowance. However, the petition was dismissed in a decision

mailed on April 13, 2009. The decision explained that petitioner had not submitted a copy of a master docket report, showing all of the firm's replies docketed for a due date of February 4, 2009.

With the instant petition, petitioner has submitted a copy of a master docket record showing all his replies docketed for a due date of February 4, 2009. An entry for the instant application does not appear, supporting the conclusion that the Notice of Allowance was not received.

The application is being forwarded to Group Art Unit 2164 for re-mailing of the November 4, 2008 Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 6

Franklin Zhigang Zhang
4808 Laurette Street
Torrance, CA 90503

COPY MAILED

DEC 2 2 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Franklin ZhiGang Zhang :
Application No. 10/015,307 :
Filed: December 12, 2001 :
Attorney Docket No. n/a :

This is a decision on the petition under 37 CFR 1.137(b), filed December 8, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 7, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 8, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement.

The application file is being forwarded to Technology Center AU 2841 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David A. Loewenstein
802 King Street
Rye Brook NY 10573

COPY MAILED
JUN 01 2004
OFFICE OF PETITIONS

Applicant: Loewenstein
Appl. No.: 10/015,314
Filing Date: December 11, 2001
Title: Poker Game
Pub. No.: US 2002/0107174 A1
Pub. Date: June 12, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on June 20, 2003 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 10-02

Paper No. 6

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO IL 60601-1692

COPY MAILED

OCT 16 2002

OFFICE OF PETITIONS

In re Application of	:
Theilman and Pricone	:
Application No. 10/015,319	: DECISION REFUSING STATUS
Filed: 12 December, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No. NV 2914-AC-C1	:

This is in response to the petition filed on 7 June, 2002, under 37 CFR 1.47(b).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 December, 2001, without an executed oath or declaration.

Accordingly, on 7 January, 2002, Initial Patent Examination Division mailed a Notice To File Missing Parts of Nonprovisional Application requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 7 June, 2002, the present petition was filed, accompanied by a three (3) month extension of time.

Petitioners assert that a copy of the application papers was sent

both non-signing inventors. Joint inventor Pricone stated orally to Janice Jackson, Administrative Assistant at Avery Dennison Corporation, that he would not sign the declaration until he received a reply to an email from Avery Dennison's patent counsel. Further attempts to reach Pricone were unsuccessful. Additionally, joint inventor Thielman did not return a signed declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents

[1] MPEP 409.03(b).

Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 11-02

Paper No. 8

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO IL 60601-1692

COPY MAILED

NOV 27 2002

OFFICE OF PETITIONS

In re Application of	:
Theilman and Pricone	:
Application No. 10/015,319	: DECISION REFUSING STATUS
Filed: 12 December, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No. NV 2914-AC-C1	:

This is in response to the renewed petition filed on 12 November, 2002, under 37 CFR 1.47(b).

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks item (2).

As to item (2), an oath or declaration for the patent application

in compliance with 37 CFR 1.63 and 1.64 has not been presented. Specifically, the declaration is defective in that it contains non-dated/non-initialed alterations in the title of the corporate officer signing on behalf of and as agent for the non-signing inventors.[1] The "Added Pages to Combined Declaration" states on the first page that Richard Randall is Assistant Secretary and Assistant General Counsel, while his signature block contains a non-dated/non-initialed alteration to "Associate" General Counsel and Assistant Secretary.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] See 37 CFR 1.52(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Robert M. Pricone
31175 Bob-O-Link Lane
Libertyville, IL 60648

COPY MAILED

JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Theilman et al.
Application No. 10/015,319
Filed: 12 December, 2001
For: PROCESS AND APPARATUS FOR EMBOSSING PRECISE MICROSTRUCTURES AND EMBOSSING TOOL FOR MAKING SAME

Dear Mr. Pricone:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO IL 60601-1692

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

W. Scott Thielman
840 North Martin Drive
Palatine, IL 60067

COPY MAILED

JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Theilman et al.
Application No. 10/015,319
Filed: 12 December, 2001
For: PROCESS AND APPARATUS FOR EMBOSSING PRECISE MICROSTRUCTURES AND EMBOSSING TOOL FOR MAKING SAME

Dear Mr. Thielman:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO IL 60601-1692

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Paper No. 12

JONES, DAY, REAVIS AND POGUE
35TH FLOOR
77 WEST WACKER
CHICAGO IL 60601-1692

COPY MAILED

JAN 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Theilman and Pricone	:	
Application No. 10/015,319	:	DECISION ACCORDING STATUS
Filed: 12 December, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. NV 2914-AC-C1	:	

This is in response to the twice renewed petition filed on 16 January, 2003, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown, via the declaration of Janice Jackson, Administrative Assistant at Avery Dennison Corporation, that a copy of the application was sent via Federal Express to the last known addresses of each non-signing inventor. Neither inventor, however, returned an executed declaration. Additionally, petitioners have shown proprietary interest by providing a legal memorandum signed by attorney Ronald A. Sandler, being familiar with the law of the jurisdiction, stating that by court of competent jurisdiction would by the weight of authority in the relevant jurisdiction (Illinois) award the title of the invention to the Rule 47(b) applicant. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor. Notice of

the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

1732
Det Sec.

OIPE JC106
JUL 1 4 2003
PATENT & TRADEMARK OFFICE

PTO/SB/83 (01-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Application Number	10/015,319
Filing Date	December 12, 2001
First Named Inventor	W. Scott Thielman
Art Unit	1732
Examiner Name	
Attorney Docket Number	013013026179

RECEIVED
JUL 1 6 2003
GROUP 1700

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700

JUN 2 9 2004

To: Commissioner for Patents
Washington, DC 20231

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

Transfer of prosecution responsibility to new law firm

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [X] Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

[X] Customer Number 23,908 → Place Customer Number Bar Code Label Here

OR

[X] Firm *or* Individual Name	Heidi Boehlefeld Renner, Otto, Boisselle & Sklar				
Address	1621 Euclid Avenue				
Address					
City	Cleveland	State	Ohio	Zip	44115-2191
Country	United States of America				
Telephone	216-621-1113	Fax			

[X] This request is made on behalf of myself and
- [X] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

This request is enclosed in triplicate (including any attachments).

Name	Sandra B. Weiss
Signature	Sandra B. Weiss
Date	7/10/03

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, Washington, DC 20231.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Def. Sec.

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

Bib Data Sheet

CONFIRMATION NO. 4291

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/015,319	12/12/2001 RULE 1.47	425	1722	

APPLICANTS

W. Scott Thielman, Palatine, IL;
Robert M. Pricone, Libertyville, IL;

**** CONTINUING DATA ****************************

This application is a CIP of 09/596,240 06/16/2000 ABN
and is a CIP of 09/781,756 02/12/2001 ABN

**** FOREIGN APPLICATIONS **********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 01/07/2002

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed 35 USC 119 (a-d) conditions met Verified and Acknowledged	☐ yes ☐ no ☐ yes ☐ no ☐ Met after Allowance Examiner's Signature Initials	IL	10	49	5

ADDRESS

Heidi Boehlefeld Renner, Otto, Boisselle & Sklar
1621 Euclid Avenue
Cleveland ,OH 44115-2191

TITLE

Process and apparatus for embossing precise microstructures and embossing tool for making same

FILING FEE RECEIVED		
1560	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 17 2005

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Cook, Alex, McFarron, Manzo, Cummings & Mehler LTD
Suite 2850
200 West Adams Street
Chicago, IL 60606

In re Application of Michael D. Hooven Serial No. : 10/015,346 Filed : December 12, 2001 For : Transmural Ablation Device with Curved Jaws	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed July 9, 2004, to review the holding of abandonment mailed June 30, 2004, for failure to respond to the Office action mailed October 29, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped postcard dated January 29, 2004, as evidence of the timely filing of a response.

In view of the above, the Notice of Abandonment mailed June 30, 2004 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response received January 29, 2004.

Summary: Holding of Abandonment Withdrawn.

Esther M Kepplinger

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/10/05

3739

PALM UPDATE

Serial No: 10/015,346 Art Unit 3739 Date:_____

Petition/Request has been _____ Granted

_____ Denied

_____ Dismissed

_____ Granted-n-Part

This application is being forwarded to the Art LIE for the following changes:

Count credit should be withdrawn Yes _____

No _____

PLEASE WITHDRAW ABANDONMENT AND FORWARD DOCUMENT TO SCANNING

NOTES:

Thank You!
Carol Lake – 272-2975

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZIMMER TECHNOLOGY - BAKER & DANIELS
111 EAST WAYNE STREET, SUITE 800
FORT WAYNE, IN 46802

COPY MAILED

SEP 26 2007

OFFICE OF PETITIONS

In re Application of :
Bruce Roble et al :
Application No. 10/015,365 : DECISION ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. SIM0504 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 23, 2007, 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 4, 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 5, 2006. A Notice of Abandonment was mailed on November 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

In view of the statement that the reply is the filing of a continuation application, this statement is being construed as a request to expressly abandon this application in favor of the continuation application upon the granting of the petition to revive and a filing date to the continuation application. Accordingly, this application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving this application, this application is again abandoned in favor of continuing application No. 11/656,765, filed January 23, 2007.

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.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/31/07

Paper No.: ____

TO SPE OF : ART UNIT 2131

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/015377 Patent No.: 7150043 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: The claim amendment does not change the scope of claimed subject matter.

/Ayaz Sheikh/ 2131

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/015-389

Paper No.: _____

DATE : 1-3-06

TO SPE OF : ART UNIT ~~4700~~ 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 6936436

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~~ South Tower 9A29
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.

ON Title Page please check Inventor's

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

1647
Art Unit

PTOL-305 (REV. 7/93)

U.S. DEPARTMENT OF COMMERCE 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

MAR -9 2004

Paper No. 16

In re Application of
Robert J. DiStasio *et al*
Application No. 10/015,408
Filed: December 12, 2001
Attorney Docket No. 6177-16

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on February 12, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated January 31, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

A review of the record shows that following a requirement promulgated on October 23, 2002 by which petitioners were required to elect a single claimed species of the disclosed invention for prosecution, petitioners filed numerous replies which were held to be informal and/or nonresponsive. Ultimately, this application was held to have become abandoned for failure to reply to the letter of January 31, 2003 holding that the election filed by petitioners on December 20, 2002 was informal and/or nonresponsive.

Petitioners allege that this application is not abandoned because a reply to the letter dated January 31, 2003 was in fact filed on February 7, 2003. Petitioners have established that a reply was timely filed by furnishing a copy of the reply having a 37 CFR 1.8(a) certificate of transmission affixed thereto. See 37 CFR 1.8(b).

However, the Primary Examiner reports that the February 7, 2003 reply was not a *bona fide* attempt to reply to the outstanding Office letter pursuant to 37 CFR 1.111 1.143 and 1.146, because it simply did not make an election consonant with the election requirement dated October 23, 2002. As the response was not considered to be a *bona fide* response, petitioners would have had to file a proper response and secure an extension of time pursuant to 37 CFR 1.136(a) running from the January 31, 2003 date. Obviously, that is no longer possible. See 35 USC § 133.

The application is being returned to storage as an abandoned filed pending further action by petitioners.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Fleit, Kain, Gibbons, Gutman & Bongini, P.L.
750 S.E. Third Avenue
Suite 100
Ft. Lauderdale, FL 33316-1153

UNITED STATES 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. 19

FLEIT, KAIN, GIBBONS, GUTMAN & BONGINI, P.L.
750 S.E. THIRD AVENUE, SUITE 100
FT. LAUDERDALE, FL 33316-1153

COPY MAILED

JUN 1 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Distasio et al.	:	
Application No. 10/015,408	:	ON PETITION
Filed: December 12, 2001	:	
Attorney Docket No. 6177-16	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 19, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the Office letter mailed January 31, 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, this application became abandoned on March 1; 2003. A Notice of Abandonment was mailed December 23, 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). Petitioner stated that a Response was included with the instant petition submitted on March 19, 2004. However, after a review of the application file and the instant petition, the Response could not be located. Petitioner must submit a proper response to revive the above-identified application.

The Terminal Disclaimer filed on March 19, 2004 is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file. The fee for filing the Terminal Disclaimer 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 the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 22

FLEIT, KAIN, GIBBONS, GUTMAN & BONGINI, P.L.
750 S.E. THIRD AVENUE, SUITE 100
FT. LAUDERDALE, FL 33316-1153

COPY MAILED
JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of	:	
Distasio et al.	:	
Application No. 10/015,408	:	ON PETITION
Filed: December 12, 2001	:	
Attorney Docket No. 6177-16	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed June 18, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply to the Office letter mailed January 31, 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, this application became abandoned on March 1, 2003. A Notice of Abandonment was mailed December 23, 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 further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 5

CARL M. DAVIS II
BAKER DONELSON BEARMAN & CALDWELL
SUITE 900
FIVE CONCOURSE PARKWAY
ATLANTA, GA 30328

COPY MAILED

NOV 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Steven Suggs et al :
Application No. 10/015,444 : NOTICE
Filed: December 11, 2001 :
Attorney Docket No. 170053-00035 :

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 3726.

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 25, 2006

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/015476 Patent No.: 6,889,694

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: Correction in form only; do not effect the scope of the claims.

SPE

3739
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

MAIL

MAY 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DUANE MORRIS, LLP
IP DEPARTMENT
ONE LIBERTY PLACE
PHILADELPHIA PA 19103-7396

In re Application of:	:	
Dennis TONG, et al.	:	
Application Serial No.: 10/015,477	:	DECISION
Filed: December 13, 2001	:	ON PETITION
For: **OPTO-ELECTRONIC PHASE-LOCKED LOOP WITH MICROWAVE MIXING FOR CLOCK RECOVERY**	:	

This is a decision on the petition filed April 13, 2005 accompanying a declaration under 37 C.F.R. 1.131

In accordance with MPEP § 715.04 (D) the assignee or other party in interest, when it is not possible to produce the affidavit or declaration of the inventor, may make declaration under 37 CFR 1.131. Petitioner has shown that the inventor is not available to make the 131 declaration

Accordingly, the petition is **GRANTED**.

The file is being forwarded to the examiner for treatment of the response as well as the 37 CFR 1.131 declaration filed April 13, 2005 as appropriate.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

COPY MAILED

DEC 08 2008

OFFICE OF PETITIONS

In re Application of
Kerry Champion
Application No. 10/015,502
Filed: December 11, 2001
Attorney Docket No: **23982-11569**

ON PETITION

This is a decision on the petition filed November 11, 2008, under 37 CFR 1.59(b) to expunge information unintentionally submitted in the application.

Petitioners argue that a single sheet of material was submitted as part of an exhibit to an declaration filed June 23, 2007 but that it was unintentionally filed and unrelated to the instant application and that the failure to expunge and return said documents would cause harm to the party in interest.

Based on a review of the file and the documents entitled "miscellaneous incoming letter" and pursuant to MPEP § 724.05(IV) it is determined that the information contained therein is not important to a reasonable Examiner in deciding on patentability.

It is agreed therefore that justice would be served by an expungement of the document submitted as part of an exhibit to the Declaration of Fact by Kerry Champion under 37 CFR 1.131.

However, the present application as filed has been scanned and is maintained in the Office in an Image File Wrapper (IFW). The instant request is not for national security reasons, thus, the pages will not be removed from the IFW. Instead, the Office has "hidden" the documents entitled "miscellaneous incoming letter" as immaterial to the instant application and confidential. See *Reminder of the Proper Procedure for Filing Confidential Information Pursuant to MPEP 724.02(signed April 23, 2004)*, 1282 OG 107 (May 18, 2004).

Accordingly, the petition is **GRANTED**.

Telephone inquiries specific to 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

OCT 15 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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. 7,033,785 DESNOYERS et al Issue Date: April 25, 2006 Appl No.: 10/015,519 Filed: December 11, 2001 For: Correction of Inventorship	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed September 28, 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: October 1, 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. 7,033,785 as specified on the attached Certificate.

William R. Dixon, Jr.
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,033,785
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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

COPY MAILED

APR 16 2008

In re Application of :
Robert T. Plunkett, et al. :
Application No. 10/015,530 : ON PETITION
Filed: December 12, 2001 :
Attorney Docket No. 046301-046000 :

This is a decision on the petition, filed December 20, 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 filed May 9, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 10, 2006. *See* MPEP 1215.04. This decision precedes the mailing of a Notice of Abandonment. In response, on December 20, 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 $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2183.

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 AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN E. BURKE
GREENBERG TRAURIG, LLP
1200 17TH ST., SUITE 2400
DENVER, CO 80202

COPY MAILED

JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith D. Allen	:	
Application No. 10/015,551	:	ON PETITION
Filed: December 11, 2001	:	
Attorney Docket No. R227	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application number 11/114,848.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN E. BURKE
GREENBERG TRAURIG, LLP
1200 17TH ST., SUITE 2400
DENVER, CO 80202

COPY MAILED

JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith D. Allen	:	
Application No. 10/015,551	:	ON PETITION
Filed: December 11, 2001	:	
Attorney Docket No. R227	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application number 11/114,848.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV - 4 2004

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

In re Application of	:
Klaus Krämer et al	:
Serial No.: 10/015,559	: PETITION DECISION
Filed: January 23, 2002	:
Attorney Docket No.: 52049	:

This is in response to the petition under 37 CFR 1.181, filed July 13, 2004, requesting withdrawal of Finality of the last Office action. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that the examiner mailed a first Office action to applicants on July 2, 2003, setting a three month shortened statutory period for reply in which claims 1-8 were rejected under 35 U.S.C. 112, second paragraph, as indefinite for the phrase "use of". Claims 1-8 were also rejected under 35 U.S.C. 101 as non-statutory. Claims 9-10 were rejected under 35 U.S.C. 103(a) as unpatentable over Jiang et al.

Applicants replied on November 3, 2003, by canceling claims 1-2 and 10 and amending claims 3-9 and adding claim 11. Claims 3-8 were drafted as "method of use" claims Applicants argued the amendments overcame each of the rejections of record. A supplemental IDS was filed January 22, 2004.

The examiner mailed a Final Office action to applicants on February 12, 2004, setting a three month shortened statutory period for reply. The examiner maintained the rejection of claims 3-8 under 35 U.S.C. 112, second paragraph, as indefinite for different reasons than in the previous Office action, but related to the amendments to the claims. Claims 3-8 were also rejected under 35 U.S.C. 112, first paragraph, and the specification as failing how to make and use the invention. Claims 3-9 and 11 were then rejected under 35 U.S.C. 103(a) as unpatentable over Jiang et al in view of Burton et al. The examiner made the action Final on the basis that applicants' amendment necessitated the new rejections.

Applicants filed this petition concurrently with a Notice of Appeal and an amendment after Final rejection on July 13, 2004. The amendment has not been acted on by the examiner.

DISCUSSION

Applicants petition the Finality of the last Office action on the basis that the new rejection of claim 9 in the Final Office action of February 12, 2004, was not necessitated by applicants actions or amendments. A review of the Office actions shows that claims 9-10 were rejected over Jiang et al alone in the first Office action. In response thereto applicants canceled claim 10 and incorporated its limitations into claim 9. Thus claim 9 is essentially claim 10 presented in independent form. In the second Office action claim 9 was rejected over a combination of Jiang et al and Burton et al. The making of an Office action Final when claims are amended is permitted when the claims are significantly amended and require utilization of additional references. Here, however, amended claim 9 is essentially the same as previously dependent and now canceled claim 10 rejected in the previous Office action over a single reference. To now reject this claim over a combination of references is a new rejection not necessitated by applicants actions or amendments. Thus making the Office action Final was improper.

The petition is **GRANTED**. The Office action mailed February 12, 2004 is designated a non-Final Office action

As applicants have replied to the February 12, 2004 Office action, the response will be entered and the application will be forwarded to the examiner for further consideration. The Notice of Appeal filed concurrently with the amendment will be held in abeyance. Applicants may request refund of the Appeal Fee if an Appeal becomes unnecessary or, should a proper Final Office action issue, reinstate the Appeal by filing a new Notice of Appeal without any additional Appeal Fee.

There is no fee for this petition and the Petition Fee paid of $130.00 will be credited to applicants' Deposit Account No. 11-0345, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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

UR
PAPER NO. 3

FEB 1 2002

In re Application of	:	
William R. Lehman	:	DECISION ON
Serial No. 10/015,583	:	PETITION UNDER
Filed: December 17, 2001	:	M.P.E.P. 708.02(XI)
For: SYSTEM AND METHOD FOR REMOVING	:	
CONTAMINATES FROM THE AIR	:	
IN A MAIL-SORTING ROOM	:	

This is in response to the petition filed December 17, 2001, requesting that the above-identified application be granted Special Status under Sections 37 CFR 102(c) and 708.02 (XI) of the MPEP (fee paid).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly, the petition is GRANTED.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Samuel W. Nitros
MILES & STOCKBRIDGE P.C.
Suite 500
1751 Pinnacle Drive
McLean, VA 22102-3833

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 02-05

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

FEB 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Lehman et al.	:	
Application No. 10/015,583	:	ON PETITION
Filed: 17 December, 2001	:	
Attorney Docket No. T3292-907823	:	

This is a decision on the petition filed on 1 November, 2004, under 37 CFR 1.47(a) and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

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 1.48(a) and 1.183."

On 17 December, 2001, the above-identified application was filed. The original application papers included, a declaration under 37 CFR 1.63 was filed naming William R. Lehman as the sole inventor.

On 1 November, 2004, the present petition was filed, whereby petitioners seek to add David A. Stout as a joint inventor. Petitioners further state that joint inventor Lehman has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3).

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (4) in that petitioners have not provided the written consent of the assignee. It is noted that while the petition under 37 CFR 1.48(a) references the filing of consent of the assignee, no statement of consent could be located among the papers received with the present petition. Rather, petitioners have simply provided a statement under 37 CFR 3.73(b) and a copy of the assignment itself. Any renewed petition should be accompanied by the written consent of the assignee.

Petition Under 37 CFR 1.183

Petitioners state that Lehman has refused to sign a supplemental declaration naming the inventive entity, and request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) of an oath or declaration signed by each actual inventor in that Lehman refuses to sign the declaration.

In view of the dismissal of the petition under 37 CFR 1.48(a) as stated above, the requirements for a petition under 37 CFR 1.183 to waive 1.63 and 1.67 have not been met. Therefore the petition under 37 CFR 1.183 must be dismissed. However, such dismissal is without prejudice to reconsideration pending submission of a grantable petition under 37 CFR 1.48(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

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
www.uspto.gov
DIW 03-05

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Stout and Lehman	:	
Application No. 10/015,583	:	ON PETITION
Filed: 17 December, 2001	:	
Attorney Docket No. T3292-907823	:	

This is a decision on the renewed petition filed on 25 February, 2005, under 37 CFR 1.47(a) and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is **GRANTED**.

On 17 December, 2001, the above-identified application was filed. The original application papers included, a declaration under 37 CFR 1.63 was filed naming William R. Lehman as the sole inventor.

On 1 November, 2004, a petition was filed, whereby petitioners seek to add David A. Stout as a joint inventor. Petitioners further state that joint inventor Lehman has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3). The petition was dismissed on 22 February, 2005.

The present renewed petition was filed on 25 February, 2005.

Petition Under 37 CFR 1.48(a) and 1.183

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(I), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As a result of papers filed on 16 August, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

In view of the efforts recounted in the petition to obtain the signature of William R. Lehman on the supplemental declaration as required by 37 CFR 1.63, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration required by 37 CFR 1.63 and 1.67.

The inventorship of this application has been changed by the addition of: David A. Stout, Mountain Home, AR.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's convenience.

The application is being forwarded to Technology Center 1724 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

Encl: 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

MAILED

NOV 03 2003

Director's Office
Group 3700

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

Paper No. 4

In re Application of
KAH ET AL.
Application No.: 10/015,588
Filed: December 17, 2001

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 31, 2003 to make special under 37 CFR 1.102(d).

Since the requirements of 37 CFR 1.102(d) and MPEP 708.02, II have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED

APR 20 2007

OFFICE OF PETITIONS

In re Application of	:
Nobuyuki Takahashi	:
Application No. 10/015,601	: DECISION GRANTING PETITION
Filed: December 17, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 001425-120	:

This is a decision on the petition, filed April 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\015601.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

02032006

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAR 0 1 2006

In re Application of
Yuji TOCHIO
Application No. 10/015,616
Filed: December 17, 2001
Attorney Docket No. 1344.1080

DECISION ON PETITION

This is a decision on the petition filed January 13, 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 Final Office action was mailed on April 22, 2003, setting a three-month period of response. An Advisory Office action was mailed September 22, 2003 stating that the period for response expires three months from the date the Final Office action was mailed.

Petitioner asserts that a Notice of Appeal, a Petition for Two-Month Extension of Time and a check for payment of fees was filed on October 22, 2003. This is evidenced by copies of the Notice of Appeal and the Petition for Two-Month Extension of Time and the date stamped postcard receipt indicating receipt in the U.S. Patent and Trademark Office (USPTO). Further, Petitioner asserts that a Petition for One-Month Extension of Time was filed along with the paper entitled "Response filed under 37 C.F.R. § 1.116" on August 19, 2003. Moreover, Petitioner asserts that a Request for Continued Examination (RCE) together with an Amendment was timely filed on December 22, 2003 as evidenced by copies of the request for a RCE, Amendment and the postcard receipt indicating receipt of the RCE and Amendment in the USPTO.

A review of the application file reveals that the Advisory Office action should have stated that the period for response expires four months from the date the Final Office action was mailed. Applicant had timely filed a Petition for One-Month Extension of Time and paid the requisite fee.

The application file also reveals that the Notice of Appeal, the Petition for Two-Month Extension of Time, the RCE, the Amendment and fees were received in the USPTO as indicated on the

stamped postcard receipts. However, the above identified papers were not noticed by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Notice of Appeal, the Petition for Two-Month Extension of Time, the RCE and the Amendment in response to the Final Office action of April 22, 2003. From there, it will be returned to the examiner for further prosecution.

James L. Dwyer, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 26, 2007

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No. 10/015616 patent No.: 7,158,551

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

MINSUN OH EDWARD
PRIMARY EXAMINER

SPE

2828
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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

RECEIVED
DEC 19 2008
OFFICE OF PETITIONS

In re Application of :
Jesse J. KUHNS et al. :
Application No. 10/015,631 : DECISION ON PETITION
Filed: December 10, 2001 :
Attorney Docket No. END-786 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees on or before October 17, 2008, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 17, 2008. Accordingly, the date of abandonment of this application is October 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 current issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

This application is being referred to the Office of Data Management for processing into a patent.

David Bucci
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

JJGJR.: 07-07

Paper No: __

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
XEROX SQUARE 20TH FLOOR
100 CLINTON AVE SOUTH
ROCHESTER NY 14644

COPY MAILED
JUL 16 2007
OFFICE OF PETITIONS

In re Application of	:	
Baudisch, et al.	:	
Application No. 10/015,642	:	DECISION
Filing Date: 17 December, 2001	:	
Attorney Docket No.: D/A1188Q	:	

This is a decision on the petition filed on 16 November, 2006, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.[1]

The Office regrets the delay in addressing this matter, however, it was presented for review by the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

---

[1] Petitioner indicates by telephone that he filed on or about 1 March, 2007, a petition under 37 C.F.R. §1.137, however, at this writing there is no indication in PALM or IFW of the presence of that additional petition.

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 19 January, 2006, with reply due absent and extension of time on or before 19 April, 2006;

- the instant application went abandoned after midnight 19 April 2006;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed, however, Office records in PALM clearly indicate that the application is deemed abandoned;

- on 16 November, 2006, Petitioner filed the instant petition, with an averment of non-receipt and, while there is a statement that the Office action is not found in the file, there is no indication as to who made the search and that the person who searched the file is the one making the statement–if it is Petitioner, Nola Mae McBain (Reg. No. 35,782) it would be proper for more clarity to be given to that fact;

- further, Petitioner avers a conversation with the Examiner, however, the record is silent as to such an event–Petitioner is reminded that it is Petitioner's responsibility to memorialize conversations with the Examiner, for, as one registered to practice before the

---

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

Office, Petitioner is aware that the Rules of Practice require that all matters before the Office are to be in writing (see: 37 C.F.R. §1.2[3]).

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

---

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

[4] 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 —

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).[5]

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.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] 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).[8] And the Petitioner must be diligent in attending to the matter.[9] 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

---

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[5] 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.

[6] 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.

[7] 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).

[8] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[9] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

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.[11]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

---

[10] 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.

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* **

> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Because of the failure to provide clarity as to the person and process of the file search, Petitioner appears not to have satisfied the showing requirements described above.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file such a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unavoidable or unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[12]

By mail: Commissioner for Patents[13]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[14]) 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

Encl.: 19 January, 2006, Office action

---

[12] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[13] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[14] 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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,642	12/17/2001	Patrick Baudisch	D/A1188Q	8515

7590 01/19/2006

Patent Documentation Center
Xerox Corporation
Xerox Square 20th Floor
100 Clinton Ave South
Rochester, NY 14644

EXAMINER
ROSWELL, MICHAEL

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/015,642	BAUDISCH ET AL.	
	Examiner	Art Unit	
	Michael Roswell	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 October 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 20050125

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed 18 October 2005.

Information Disclosure Statement

The information disclosure statement filed 25 January 2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the IDS does not list the document number for "Arcuri et al", class 345, subclass 428. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogle, IV (US Patent 5,923,307), hereinafter Hogle.

Regarding claim 1, Hogle teaches providing image information data for an image and replicating the image information to provide image information data associated with display areas, wherein the image information data associated with a display area is to be displayed on

the associated display area, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming at least one of the associated image information data where at least one of the associated image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), where the displayed resolution of the image displayed on at least one of the at least two display areas is different from the displayed resolution of the image displayed on at least one other of the at least two display areas (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claims 2 and 3, Hogle teaches in Fig. 4 the transforming and display of multiple objects between multiple viewing areas, which encompasses applicant's claimed transforming of two and three image information datum.

Regarding claim 4, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is scaled in size, taught as

the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 5, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 6, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 7, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 8, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the

contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 9, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 10 and 11, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 12, Hogle teaches providing image information data for an image and replicating the image information to provide first and second image information data to be displayed on first and second display areas, respectively, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming the first image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on the first and second display areas from the associated image information data the resulting image on the first and second display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the

image displayed on the first display area is different than the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claim 13, Hogle teaches transforming the first image information data further comprising transforming the second image information data, wherein the second image information data is a transformed portion of the image information data, taught as the display of objects between two monitors, at col. 1, lines 63-67, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29.

Regarding claim 14, Hogle teaches transforming the first image information data comprising scaling the image information data, taught as taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 15, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 16, Hogle teaches transforming the first image information data comprising transforming the first image information data such that when an image is displayed from the first image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 17, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 18, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 19, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 20 and 21, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 22, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67. Furthermore, Hogle teaches replicating the image information to provide image information data to be displayed on first and second display areas, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle also teaches transforming at least one of the associated image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different from the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29). Hogle further teaches

sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Response to Arguments

Applicant's arguments filed 18 October 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that Hogle IV fails to teach transforming image information data to provide a continuous display with portions displayed in different resolutions, the Examiner respectfully disagrees. Applicant has noted several times that the display of an image across multiple monitors having different pixel resolutions would result in the image appearing larger on the monitor with larger pixels, and smaller on the monitor with smaller pixels. While the Examiner accepts this may be true, the language of claims 1, 11, and 22 necessitates that the image appear "substantially continuous to a viewer". Such language is highly subjective in nature, as what is substantially continuous to one person may not be substantially continuous to another. Therefore, the Examiner refers to Figs. 4 and 16(a) and col. 1, lines 62-67, which depict a single window displayed and moved across two different monitors. While the window may very well be larger on one monitor than the other due to variations in pixel resolution, the fact that the window appears to be the same window on both monitors, qualifies it as a "substantially continuous" image.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Roswell
1/4/2006

CAO (KEVIN) NGUYEN
PRIMARY EXAMINER

DETAILED ACTION

This Office Action is in response to a Request for Continued Examination filed 18 October 2005.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hogle, IV (US Patent 5,923,307), hereinafter Hogle.

Regarding claim 1, Hogle teaches providing image information data for an image and replicating the image information to provide image information data associated with display areas, wherein the image information data associated with a display area is to be displayed on the associated display area, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming at least one of the associated image information data where at least one of the associated image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), where the displayed resolution of the image displayed on at least one of the at least two display areas is different from the displayed resolution of the image displayed on at least one other of the at least two display areas (taught

as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claims 2 and 3, Hogle teaches in Fig. 4 the transforming and display of multiple objects between multiple viewing areas, which encompasses applicant's claimed transforming of two and three image information datum.

Regarding claim 4, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is scaled in size, taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 5, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 6, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image

is displayed from the image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 7, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 8, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 9, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 10 and 11, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 12, Hogle teaches providing image information data for an image and replicating the image information to provide first and second image information data to be displayed on first and second display areas, respectively, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle further teaches transforming the first image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on the first and second display areas from the associated image information data the resulting image on the first and second display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different than the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29).

Regarding claim 13, Hogle teaches transforming the first image information data further comprising transforming the second image information data, wherein the second image information data is a transformed portion of the image information data, taught as the display of objects between two monitors, at col. 1, lines 63-67, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29.

Regarding claim 14, Hogle teaches transforming the first image information data comprising scaling the image information data, taught as taught as the resizing of windows or other display regions in response to a display geometry change, at col. 10, lines 30-35.

Regarding claim 15, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image is clipped, taught inherently as the display of one window between two monitors in Fig. 16a, where the window is clipped at the edge of the monitor so as to keep a continuous image appearance.

Regarding claim 16, Hogle teaches transforming the first image information data comprising transforming the first image information data such that when an image is displayed from the first image information data, the displayed image is translated, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claim 17, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image is displayed from the image information data, the displayed image has modified colors, taught as the conversion of an image color to match the limitations of an adaptor or monitor, at col. 7, lines 58-63.

Regarding claim 18, Hogle teaches transforming at least one of the associated image information data comprising transforming the image information data such that when an image

is displayed from the image information data, the displayed image is rotated, taught as the contiguous display of an image on a first monitor in a rotated or inverted relationship with a second monitor, at Appendix A, col. 18.

Regarding claim 19, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67.

Regarding claims 20 and 21, Hogle teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Regarding claim 22, Hogle teaches receiving user input data before the step of providing image information data wherein the user input data is used to provide the image information data, taught as the ability of the user to move objects around the virtual desktop space, at col. 1, lines 62-67. Furthermore, Hogle teaches replicating the image information to provide image information data to be displayed on first and second display areas, taught inherently as the object data provided to a monitor in order to display objects such as windows and images, at col. 1, lines 32-67. Hogle also teaches transforming at least one of the associated image information data wherein the first image information data is a transformed portion of the image information data such that when images are displayed on each display area from the associated image information data the resulting image on at least two display areas appears substantially continuous to a viewer situated to view the image (shown as Window C of Fig. 4, and taught as

the use of a contiguous and non-overlapping region, at col. 2, lines 1-8, the manipulating of a graphic object in response to a monitor geometry change, at col. 3, lines 14-29, and the display of an image across multiple monitors, at col. 1, lines 62-67), and the displayed resolution of the image displayed on the first display area is different from the displayed resolution of the image displayed on the second display area (taught as the reconfiguring of varying-resolution displays into a contiguous, non-overlapping workspace, at col. 11, lines 48-59, and the manipulation of a displayed graphic object to maintain the location of the object in response to a display geometry change, such as a resolution change, as taught at col. 3, lines 14-29). Hogle further teaches sending the image information data to the associated display area, taught inherently as the display of an image on a monitor, at col. 1, lines 62-67.

Response to Arguments

Applicant's arguments filed 18 October 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that Hogle IV fails to teach transforming image information data to provide a continuous display with portions displayed in different resolutions, the Examiner respectfully disagrees. Applicant has noted several times that the display of an image across multiple monitors having different pixel resolutions would result in the image appearing larger on the monitor with larger pixels, and smaller on the monitor with smaller pixels. While the Examiner accepts this may be true, the language of claims 1, 11, and 22 necessitates that the image appear "substantially continuous to a viewer". Such language is highly subjective in nature, as what is substantially continuous to one person may not be substantially continuous to another. Therefore, the Examiner refers to Figs. 4 and 16(a) and col. 1, lines 62-67, which depict a single window displayed and moved across two different

monitors. While the window may very well be larger on one monitor than the other due to variations in pixel resolution, the fact that the window appears to be the same window on both monitors, qualifies it as a "substantially continuous" image.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Roswell
1/4/2006

CAO (KEVIN) NGUYEN
PRIMARY 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

JJGJR.: 12-07

Paper No: __

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

COPY MAILED

DEC 1 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Baudisch, et al.	:	
Application No. 10/015,642	:	DECISION
Filing Date: 17 December, 2001	:	
Attorney Docket No.: D/A1188Q	:	

This is a decision on the (renewed) petition filed on 8 August, 2007, seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 19 January, 2006, with reply due absent and extension of time on or before 19 April, 2006;
- the instant application went abandoned after midnight 19 April 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed, however, Office records in PALM clearly indicate that the application is deemed abandoned;
- on 16 November, 2006, Petitioner filed the original petition, with an averment of non-receipt and, while there is a statement that the Office action is not found in the file, there is no indication as to who made the search and that the person who searched the file is the

one making the statement–if it is Petitioner, it would be proper for more clarity to be given to that fact; further, Petitioner avers a conversation with the Examiner, however, the record is silent as to such an event–Petitioner is reminded that it is Petitioner's responsibility to memorialize conversations with the Examiner, for, as one registered to practice before the Office, Petitioner is aware that the Rules of Practice require that all matters before the Office are to be in writing (see: 37 C.F.R. §1.2[1])–thus the original petition was dismissed on 16 July, 2007;

- the instant petition seeks to address deficiencies and provides the statement and due-date docket records in support of the petition.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] 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.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

---

evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[9]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in

---

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements described above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **granted**, there appears to be is no Notice of Abandonment to be vacated.

The instant application is released to Technology Center 2100 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and

---

[10] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is

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

---

disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Documentation Center
Xerox Corporation
Xerox Square, 20th Floor
100 Clinton Ave. S.
Rochester NY 14644

COPY MAILED
SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
Baudisch et al. :
Application No. 10/015,677 : ON PETITION
Filed: December 17, 2001 :
Attorney Docket Number: D/A1188Q2

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of February 8, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 9, 2006. This decision precedes the mailing of a Notice of Abandonment.

This Petition is hereby **Granted**.

The office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2600 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JAN 12 2005

OFFICE OF PETITIONS

WITHERS & KEYS LLC
P O BOX 71355
MARIETTA GA 30007-1355

In re Application of
Kirkpatrick
Application No. 10/015,703
Filed: December 17, 2001
Attorney Docket No.: BS01-171

DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This decision is in response to the petition under 37 CFR 1.137(f), filed November 15, 2004.

The petition is hereby **GRANTED**.

Petitioners state that the instant Nonprovisional application is the subject of an application (PCT/US02/39858) filed December 13, 2002 in another country, or under a multinational treaty that requires publication of applications eighteen months after filing. Petitioners' further state that petitioners unintentionally failed to notify the Office of this filing within 45 days of the filing of the subject application in a foreign country.

Hence, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement that requires publication of applications 18 months after filing.

A grantable petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply; (2) the petition fee; (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition has been reviewed and found to be in compliance with the provisions of 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC

122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date of the instant application was previously mailed September 9, 2004.

This application is being forwarded to Technology Center 2100 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Gao, et al.	:	
Application No. 10/015,715	:	ON PETITION
Filed: December 12, 2001	:	
Attorney Docket No. 39780-2830P1C56	:	

This is a decision on the correspondence entitled, "REQUEST FOR CORRECTED FILING RECEIPT," filed March 21, 2005, requesting that the Office correct the priority data for the above-identified application. The correspondence will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The petition should include a cover letter entitled "Petition under 37 CFR 1.78(a)(3)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

It is noted that the application was filed on December 12, 2001. A preliminary amendment changing the priority data was filed on August 29, 2002.

Applicant must file a petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 and § 365 for the benefit of priority to the prior-filed nonprovisional and PCT applications.

A petition under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. A claim of benefit under 35 U.S.C. 120 is required to be filed during the pendency of the nonprovisional application that seeks to claim the invention disclosed in an earlier-filed nonprovisional application.

However, when the nonprovisional application is filed on or after November 29, 2000, as is in the instant case, the claim of benefit must be filed **not merely** during the pendency of the

nonprovisional application, **but** within either 4 months of its filing date, or 16 months of the filing date of the prior filed application, whichever is later. In addition, the petition must accompanied by:

(1) the surcharge as 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)(2) and the date the claim was filed as unintentional; and

(3)the reference to the prior filed nonprovisional application, supplied in an application data sheet, or as an amendment in the first sentence following the title. *See* 35 U.S.C. 120 and 37 CFR 1.78(a)(2).

The August 29, 2002 preliminary amendment was outside of the window of 37 CFR 1.78(a)(2)(ii). Therefore, a petition under 37 CFR 1.78(a)(3) is required to add/alter priority information.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 0 5 2006

OFFICE OF PETITIONS

In re Patent of
Baker, et al.
Patent No. 7,033,786
Issued: April 25, 2006
Application No. 10/015,715
Filed: December 12, 2001
Attorney Docket No. GNE.2830P1C56

: ON PETITION

This is a decision on the request for reconsideration of the March 28, 2006 decision dismissing petitioners' request for a Corrected Filing Receipt and the petition filed in the alternative under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 365(c) for the benefit of the prior-filed nonprovisional and PCT applications set forth in the amendment filed September 9, 2002 (certificate of mailing date August 29, 2002).

The petition under 37 CFR 1.181 is **DISMISSED.**

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

The application was filed on December 12, 2001. It is noted that the December 12, 2001 Preliminary Amendment listed the applications for which benefit is sought. However, the relationship between the applications was missing in some instances. The current procedure where a claim for priority under 37 CFR 1.78(a)(3) is not properly presented and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR 1.78(a)(2)(ii). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed application(s) set forth improperly, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3).[1]

Application No. 09/403,297 was not listed on the Patent Application Publication. Therefore, the Office did not note the improper claim for benefit of Application No. 09/403,297. Further, while the

[1] *Note* MPEP 201.11 (V), page 200-75 (Rev. 1. Feb. 2004 and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

Office noted the reference to PCT/US00/0342, it was published as one claiming foreign priority rather than domestic.

A petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 is required to claim the benefit of application no. 09/403,297 and PCT/US00/0342.

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 MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

The preliminary amendment filed on December 12, 2001 only states the relationship between the present application and Application No. 09/946,374. No relationships are stated with respect to the other non-provisional and PCT applications. Listing the application number is not enough. Relationships between applications must be stated.

A preliminary amendment listing the relationships between applications was filed on September 9, 2002 (certificate of mailing date August 29, 2002). However, the amendment was not filed within either 4 months of the application's filing date, or 16 months of the filing date of the prior filed application, whichever is later. Therefore, the amendment was not timely filed and a petition under 37 CFR 1.78(a)(3) is required.

The petition under 37 CFR 1.181 for reconsideration of the March 28, 2006 decision on petition is dismissed.

A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional and PCT applications was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed December 12, 2001.

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. Since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3) is the appropriate avenue of relief to

accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

No further action is required in this case.

Any questions concerning this matter may be directed to Petitions Attorney Shirene Willis Brantley at (571) 272- 3230.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

COPY MAILED

JUN 1 6 2004

OFFICE OF PETITIONS

Rogitz & Associates
750 B Street, Suite 3120
San Diego, CA 92101

In re Application of
Maritzen, Yasuda, Tanner, and Ludtke
Application No.: 10/015,724
Filed: December 6, 2001
Attorney Docket No: 50P4506.01
For: SYSTEM AND METHOD FOR CONDUCTING FINANCIAL TRANSACTIONS USING A PERSONAL TRANSACTION DEVICE WITH VEHICLE ACCESSED, PAYMENT-GATEWAY TERMINALS

DECISION ACCORDING RULE 47(a) STATUS AND DISMISSING PETITION UNDER 37 CFR 1.137(b)

This is in response to the petitions under 37 CFR 1.47(a) and 37 CFR 1.137(b), filed June 7, 2004.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

TREATMENT UNDER 37 CFR 1.47(a)

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on December 6, 2001, and was not accompanied by a proper oath or declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on January 23, 2002, requiring an properly executed declaration, $130.00 surcharge, and substitute drawings. The notice allowed an extendable period for reply of two months from its mailing date. No response was received within the allowed period and the application became abandoned on March 24, 2002. A Notice of Abandonment was mailed on January 6, 2004.

Petitioner has shown that inventor Maritzen has constructively refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $130.00 was not found with the petition papers, however; it is noted that petitioner made a payment for a request for an extension of time within the fourth. This request for an extension of time is not necessary, nor is it available to petitioner because it was made outside the maximum period for reply. The petition fee of $130.00 will be taken from the $1,610.00 paid for the extension of time and petitioner will be refunded $1,480.00, in due course.

TREATMENT UNDER 37 CFR 1.137(b)

The petition under 37 CFR 1.137(b) 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)."

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 item (1) above.

The Notice to File Missing Parts of Nonprovisional Application required substitute drawings be filed, however; substitute drawings were not found with the petition papers. In order for the petition under 37 CFR 1.137(b) to be considered grantable, petitioner must file substitute drawings with any renewed petition filed.

By mail: Commissioner for Patents
United States Patent and Trademark Office
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Maritzen
PO Box 360221
Milpitas, CA 95036

In re Application of
Maritzen, Yasuda, Tanner, and Ludtke
Application No. 10/015,724
Filed: December 6, 2001
Attorney Docket Number: 50P4506.01
For: SYSTEM AND METHOD FOR CONDUCTING FINANCIAL TRANSACTIONS USING A PERSONAL TRANSACTION DEVICE WITH VEHICLE ACCESSED PAYMENT-GATEWAY TERMINALS

LETTER

COPY MAILED
JUN 1 6 2004
OFFICE OF PETITIONS

Dear Mr. Maritzen:

You are named as a joint inventor in the above-identified United States reissue patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a 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. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Rogitz & Associates
750 B Street, Suite 3120
San Diego, CA 92101

UNITED STATES 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

Rogitz & Associates
750 B Street, suite 3120
San Diego, CA 92101

COPY MAILED
JUL 22 2004
OFFICE OF PETITIONS

In re Application of
Maritzen, Yasuda, Tanner, and Ludtke
Application No.: 10/015,724
Filed: December 6, 2001
Attorney Docket No. 50P4506.01

ON PETITION

This is in response to the renewed petition under 37 CFR 1.137(b) filed July 13, 2004.

The petition under 37 CFR 1.137(b) is **granted**.

The above-cited application became abandoned for failure to respond in a timely manner to the "Notice to File Missing Parts of Nonprovisional Application" mailed January 23, 2002. The notice set a period for reply of two months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 24, 2002. A Notice of Abandonment was mailed on January 6, 2004.

The substitute drawings filed July 13, 2004, are noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/015,734
Filing Date	12/13/01
First Named Inventor	Medsker et al.
Art Unit	1711
Examiner Name	O. Asinovsky
Attorney Docket Number	GC-GU (GT-5420)

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
SEP - 2 2004

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [x] 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: Client will not be prejudice inasmuch as all correspondence is being handled internally by an in-house patent attorney who is either handling the matters himself or sing other law firms.

CORRESPONDENCE ADDRESS

1. [x] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

[ ] Customer Number:

OR

[ ] Firm or Individual Name					
Address					
Address					
City		State		Zip	
Country					
Telephone				Fax	

Name	Daniel J. Hudak		
Signature	Daniel J. Hudak	Registration No.	25,879
Date	FEB 20, 2004	Telephone No.	330-535-2220

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CENTRAL FAX CENTER
FEB 2 0 2004

Application:	Robert E. Medsker, et al	Examiner:	O. Asinovsky
Serial No.:	10/015,734	Group Art Unit:	1711
Filed:	December 13, 2001	Date:	February 20, 2004

For: **POLYMERIC BLOCKS OF AN OXETANE OLIGOMER, POLYMER OR COPOLYMER, CONTAINING ETHER SIDE CHAINS TERMINATED BY FLUORINATED ALIPHATIC GROUPS, AND HYDROCARBON POLYMERS OR COPOLYMERS**

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Our Firm, including all of the following attorneys are withdrawing from representation in the above-identified patent application.

Daniel J. Hudak, Reg. No. 25,879
Laura F. Shunk, Reg. No. 31,423
Cheryl L. Farine, Reg. No. 36,796
Frank C. Rote, Jr., Reg. No. 20,395
Nestor W. Shust, Reg. No. 23,034
Thomas M. Schmitz, Reg. No. 25,084
Michele M. Tyrpak, Reg. No. 42,192
Daniel J. Hudak, Jr., Reg. No. 47,669

I have received permission to sign this Notice of Withdrawal on behalf of all of the above-listed attorneys.

The Assignee, OMNOVA Solutions, Inc. has in-house representation and receives all correspondence from the U.S. Patent Office.

We are not presently engaged by the client with regard to any outstanding patent office matters, which requires a reply.

Respectfully submitted,

Daniel J. Hudak

Daniel J. Hudak
Attorney for Applicant
Registration No. 25,879

Attorney Docket No. GC-GU (GT-5420)

CENTRAL FAX CENTER
FEB 2 0 2004

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Application:	Robert E. Medsker, et al	Examiner:	O. Asinovsky
Serial No.:	10/015,734	Group Art Unit:	1711
Filed:	December 13, 2001	Date:	February 20, 2004

For: **POLYMERIC BLOCKS OF AN OXETANE OLIGOMER, POLYMER OR COPOLYMER, CONTAINING ETHER SIDE CHAINS TERMINATED BY FLUORINATED ALIPHATIC GROUPS, AND HYDROCARBON POLYMERS OR COPOLYMERS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATION OF FACSIMILE TRANSMISSION

(Facsimile: No. 1-703-872-9306 – Pages 3)

Sir:

The undersigned hereby certifies that the attached **REQUEST FOR WITHDRAWAL AS ATTORNEY (Form PTO/SB/83 and Attached List of Attorneys)** is being transmitted herewith via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on **February 20, 2004.**

Respectfully submitted,

HUDAK, SHUNK & FARINE CO. LPA

Daniel J. Hudak

By: Daniel J. Hudak
Registration No. 25,879

DJH/lb

2020 Front Street, Suite 307
Cuyahoga Falls, OH 44221
Telephone: (330) 535-2220
Facsimile: (330) 535-1435

Attorney Docket No.: GC-GU (GT-5420)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 8

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED

AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of	:
Lutnick, Kirwin, and Gilbert	:
Application No. 10/015,738	: DECISION REFUSING STATUS
Filed: 12 December, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. CF-030	:

This is in response to the petition under 37 CFR 1.47(a), filed on 12 July, 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 12 December, 2001, without a signed oath or declaration. Accordingly, on 22 January, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring a signed oath or declaration and a surcharge for its late filing. In response, on 12 July, 2002, petitioners filed a four (4) month time extension, the late filing surcharge, a declaration naming Howard M. Lutnick, Glenn D. Kirwin, and Andrew C. Gilbert as joint inventors and signed by joint inventor Lutnick, and the legal representative of deceased joint inventor Glenn D. Kirwin.

Petitioners assert that joint inventor Gilbert is deceased and that a copy of the declaration was sent to his legal

representative.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, 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, or legal representative thereof.

The present petition lacks items (1).

In regards to item (1), before a refusal to sign can be alleged, a copy of the application (specification, including claims, drawings, if any, and the declaration), must be sent or given to the legal representative of the deceased inventor. Petitioners may provide proof by supplying a copy of the cover letter transmitting the application papers to the non-signing inventor's legal representative or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

If the legal representative refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If the refusal is made orally, then a person with first hand knowledge of the details of the refusal must provide details of the refusal in an affidavit or declaration of facts.

The Request to Rescind a Nonpublication Request filed on 10 May, 2002, is accepted. In view of the rescinding of the nonpublication request, a Notice of Publication Fee Due will be sent under separate cover. 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.

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 at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Mary Ann Gilbert
5 Scarlet Oak Drive
Califon, NJ 07830

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Lutnick et al.
Application No. 10/015,738
Filed: 12 December, 2001
For: METHODS AND SYSTEMS FOR TRADING FUTURES CONTRACTS FOR INTANGIBLE ASSETS

Dear Ms. Gilbert:

You are named as the legal representative of the deceased 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 the deceased inventor will be designated therein as a joint inventor.

As the named legal representative you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

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. 10

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of	:
Lutnick, Kirwin, and Gilbert	:
Application No. 10/015,738	: DECISION ACCORDING STATUS
Filed: 12 December, 2001	: UNDER 37 CFR 1.47(a)
Attorney Docket No. CF-030	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed on 19 August, 2002.

The petition is **granted**.

Petitioner has shown that the legal representative of the deceased non-signing inventor has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the statement of petitioners' registered patent attorney, Joel Weiss, establishes that the legal representative was mailed a copy of the application papers but has failed to execute the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 14

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

COPY MAILED

APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Howard W. Lutnick et al :
Application No. 10/015,738 : DECISION GRANTING PETITION
Filed: December 12, 2001 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-30 :

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on May 10, 2002 [sic, May 13, 2002]. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3624 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 3 1 2008

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

In re Application of	:	
LUTNICK, Howard W. et al.	:	
Application No. 10/015,738	:	DECISION ON PETITION
Filed: December 12, 2001	:	TO WITHDRAW
Attorney Docket No. **CF-030**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **HOWARD W. LUTNICK**
200 E. 69TH STREET
PENTHOUS B.
NEW YORK, NY 10021

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 08-02

Paper No. 6

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED

AUG 26 2002

OFFICE OF PETITIONS

In re Application of	:
Mark Colaio	: DECISION REFUSING STATUS
Application No. 10/015,739	: UNDER 37 CFR 1.47(b)
Filed: 12 December, 2001	:
Atty Dckt No. CF-36	:

This is in response to the petition under 37 CFR 1.47(b) filed on 24 June, 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(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified reissue application was filed on 12 December, 2001, without an executed oath or declaration.

Accordingly, on 23 January, 2002, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 24 June, 2002, the present petition was filed, along with a three (3) month extension of time, authorization to charge the petition fee and surcharge to counsel's deposit account were filed, accompanied by, *inter alia*: a declaration naming Mark Colaio as the sole inventor and signed by Howard

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

Lutnick.

Petitioner asserts that the inventor was present in the World Trade Center, Tower 1, on 11 September, 2001, and is missing and presumed dead. Petitioner asseverates that a copy of the application was sent to the legal representative of the deceased sole inventor, June Colaio. Petitioner further asserts that the legal representative has failed to sign and return the declaration. In support, petitioner has submitted a copy of a letter sent to the legal representative of the deceased inventor transmitting the declaration to her.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (2), (5), and (6).

In regards to item (1), before a refusal to sign can be alleged, a copy of the application (specification, including claims, drawings, if any, and the declaration), must be sent or given to the legal representative of the deceased inventor. The letter dated 16 January, 2002, does not state that a copy of the application was forwarded to the inventor's legal representative. Petitioners may provide proof by supplying a copy of the cover letter transmitting the application papers to the non-signing inventor's legal representative or provide details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

If the legal representative refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If the refusal is made orally, then a person with first hand knowledge of the details of the refusal must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. The name, residence, mailing address, and citizenship of the deceased inventor must also be provided. Additionally, the declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the legal representative of the deceased inventor. The officer must identify his/her title in the declaration. Additionally, the residence, mailing address, and citizenship of the officer signing the declaration must be provided. If the declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1] Attention is directed to 37 CFR 1.63(a)(3); MPEP §§ 605.02, 605.03. An oath or declaration in compliance with 37 CFR 1.63 and 1.64, properly identifying the application by application number and filing date, is required.[2]

In regards to item (5), petitioners have not shown sufficient proprietary interest in the subject matter to justify filing of the application under 37 CFR 1.47(b).[33] Petitioners may provide proof by showing a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

In regards to item (6), petitioners must provide proof of irreparable damages as specified in MPEP 409.03(g). A statement by applicant that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties is sufficient.

---

[1] See MPEP 409.03(b).

[2] See MPEP 409.03(b).

[3] MPEP 409.03(f).

The petition fee of $130.00 has been charged to counsel's deposit account, No. 06-1075, as authorized in the "Response to Notice to File Missing Parts of Nonprovisional Application" filed with the present petition on 24 June, 2002.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 11-02

Paper No. 9

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED
NOV 12 2002
OFFICE OF PETITIONS

In re Application of	:
Mark Colaio	: DECISION REFUSING STATUS
Application No. 10/015,739	: UNDER 37 CFR 1.47(b)
Filed: 12 December, 2001	:
Atty Dckt No. CF-36	:

This is in response to the renewed petition under 37 CFR 1.47(b) filed on 25 October, 2002.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 12 December, 2001, without an executed oath or declaration. Accordingly, on 23 January, 2002, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. The petition filed on 24 June, 2002, was dismissed on 26 August, 2002.

In response, on 25 October, 2002, the present renewed petition was filed. Petitioners assert that a copy of the application was sent to the deceased inventor's legal representative, that proprietary interest has been established, and that irreparable harm has been shown.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks item (5).

In regards to item (5), petitioners have not shown sufficient proprietary interest in the subject matter to justify filing of the application under 37 CFR 1.47(b).[11] In support, petitioners have presented "a portion of an unsigned employment agreement between the deceased inventor and the assignee." Petitioners state that the original executed agreement was lost in the World Trade Center attack of 11 September, 2001. Since the executed copy of the agreement is no longer available, it is suggested that petitioners provide the requisite showing by providing a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

---

[1] MPEP 409.03(f).

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 12

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

COPY MAILED
JUL 2 1 2003
OFFICE OF PETITIONS

In re Application of	:
Mark Colaio	: DECISION ACCORDING STATUS
Application No. 10/015,739	: UNDER 37 CFR 1.47(b)
Filed: 12 December, 2001	:
Atty Dckt No. CF-36	:

This is in response to the twice renewed petition under 37 CFR 1.47(b) filed on 11 June, 2003.

The petition is **GRANTED**.

Petitioner has shown that the legal representative of the deceased sole inventor has refused to join in the filing of the above-identified reissue application after having been sent a copy of the application papers. Specifically, petitioners have established that on 16 January, 2002, a copy of the application and declaration was sent to the deceased sole inventor's legal representative, June Colaio, but Ms. Colaio failed to sign and return the declaration. In addition, petitioners have shown, via the legal memorandum by Joel Weiss, filed with the present renewed petition on 11 June, 2003, that petitioner Cantor Fitzgerald, LP has a proprietary interest in the above-identified application. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63, signed by Howard W. Lutnick, Chairman and CEO of Cantor Fitzgerald, and has demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing legal representative of the deceased sole inventor. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DRW 07-03

June Colaio
260 Broadway, Apt. 3C
New York, NY 10013

COPY MAILED

JUL 21 2003

OFFICE OF PETITIONS

In re Application of
Mark Colaio
Application No. 10/015,739
Filed: 12 December, 2001
For: METHOD AND SYSTEM FOR TRAINING TRADERS

Dear Ms. Colaio:

You are named as the legal representative of the deceased sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application the deceased inventor will be designated therein as the sole inventor.

As the named legal representative you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK NY 10020-1105

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMITH MOORE LLP
P.O. BOX 21927
GREENSBORO, NC 27420

COPY MAILED

AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of
Bernhard Schulze Wartenhorst
Application No. 10/015,740
Filed: December 13, 2001
Attorney Docket No. 5004273-001US1

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed July 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed PCT application, and under 35 U.S.C. § 119 for the benefit of a prior-filed foreign application.

The petitions are **GRANTED**.

As to the benefit claim 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;[1]
(2) the surcharge set forth in § 1.17(t); and

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 13, 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 Application Data Sheet, 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 application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. §§ 120 and 365(c). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

As to the benefit claim under 37 CFR 1.55(c):

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;[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 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.

---

[2] 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).

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, 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 December 13, 2001, which is after November 29, 2000 and intermediate prior-filed PCT Application No. PCT/EP00/04947 was filed on May 30, 2000, within 12 months of foreign Application No. DE199 26 957.2, filed June 14, 1999, (the filing date of the foreign application to which benefit is now being claimed). On July 7, 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, which includes the priority claim to the prior-filed applications, and the foreign priority claim, accompanies this decision on petition.

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 365(c) 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.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being referred to Technology Center Art Unit 3643 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/EP00/04947, filed May 30, 2000, and for consideration of the foreign priority claim under 35 U.S.C. § 119 for the benefit of Foreign Application No. DE19926957.2, filed June 14, 1999.

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.:20070616

DATE : June 16, 2007

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 5/31/2007

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:

SCOTT ROGERS
PRIMARY EXAMINER

EDWARD COLES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE: Ed Coles **Art Unit** 2625

UNITED STATES 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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED
JUN 01 2004
OFFICE OF PETITIONS

In re Application of
Douglas J. Wagenaar et al.
Application No. 10/015,779
Filed: December 17, 2001
Attorney Docket No.: 2001P23916 US (2436-106)
Title: HIGH RESOLUTION, MULTIPLE DETECTOR TOMOGRAPHIC RADIONUCLIDE IMAGING BASED UPON SEPARATED RADIATION DETECTION ELEMENTS

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed February 9, 2004, 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 September 24, 2003, 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 December 25, 2003. A Notice of Abandonment was mailed on February 4, 2004.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language

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).

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 instant petition, Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the payment of the petition, issue, and publication fees, and has made a statement which is being construed as the proper statement of unintentional delay.

After this decision is mailed, the application will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning *this decision* should be directed to the undersigned at (703) 305-0011. Questions pertaining to this application should be directed towards the Office of Patent Publication at (703) 305-8497.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

COPY MAILED

JAN 2 2 2004

OFFICE OF PETITIONS

In re Application of
Aarts et al.
Application No. 10/015,835
Filed: December 10, 2001
Attorney Docket No. NL 000696

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 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 June 18, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 19, 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 2600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

COPY MAILED

JUN 13 2006

OFFICE OF PETITIONS

In re Application of :
Sanguthevar Rajasekaran et al. :
Application No. 10/015,902 :
Filed: October 30, 2001 :
Attorney Docket No. 028410-0017 :

ON PETITION

This is a decision on the petition filed May 2, 2006, under 37 CFR 1.181, to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned January 6, 2006 for failure to file a timely response to the Final Office Action mailed October 5, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner argues that the Final Office Action mailed October 5, 2005 was not received, and that a revocation and power of attorney was filed prior to the mailing of the Office Action. Petitioners provide a copy of the revocation and power of attorney, a postcard receipt date stamped by the USPTO on February 25, 2004, copies of their docket record and a statement from the docketing clerk, as proof of filing of the revocation and power of attorney prior to the date the Office Action was mailed and as proof of non-receipt of the Office Action.

A review of the file does not reveal that a power of attorney and statement under 37 CFR 3.73(b) was filed but in view of the evidence presented, the Final Office Action mailed October 5, 2005 was mailed to the prior attorneys of record. The revocation and power of attorney was not made of record and thus the office action was mailed to the wrong address and as petitioners claim, not received. In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred back to Technology Center 2136 for a re-mailing of the Final Office Action originally mailed October 5, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 5

HUNTON & WILLIAMS
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W., SUITE 1200
WASHINGTON, DC 20006-1109

COPY MAILED

JUL 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Prakash Kadkade :
Application No. 10/015,939 : NOTICE
Filed: December 17, 2001 :
Attorney Docket No. 62698.000010 :

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 1651.

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
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.
10/015,948	12/11/2001	Keith D. Allen	R-605	2942

26619 7590 04/20/2005

DELTAGEN, INC.
1031 Bing Street
San Carlos, CA 94070

EXAMINER
TON, THAIAN N

ART UNIT	PAPER NUMBER
1632	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VOID

APR 20 2005

MERCHANT & GOULD, PC
P. O. BOX2903
MINNEAPOLIS, MN 55402-0903

In re Application of	:
Keith D. Allen	:
Serial No.: 10/015,948	: PETITION DECISION
Filed: December 11, 2001	:
Attorney Docket No.: R-605/40338.01	:

This is in response to the petition under 37 CFR 1.137, filed January 13, 2005, which is being treated as a petition under 37 CFR 1.181 at the request of the Office of Petitions, for withdrawal of abandonment based on incorrect mailing address.

A review of the file history shows that this application, as filed by applicant, provided as a correspondence address: DELTAGEN, INC., 740 BAY ROAD, REDWOOD CITY, CA 94063. A first Office action was mailed to this address on May 27, 2003, and a proper response made on July 31, 2003, which contained as a return address the mailing address of record. A new Office action was mailed to the same correspondence address of record on November 19, 2003, but was returned by the US Postal Service as undeliverable due to expiration of a forwarding address. No record of a change of correspondence address appears in the record until April 12, 2004, when the address was changed to: DELTAGEN, INC., 1031 BING STREET, SAN CARLOS, CA 94070. On September 23, 2004, a Notice of Abandonment was mailed to this address indicating that no response to the outstanding Office action had been received.

In this instance it appears that failure to receive the Office action mailed November 19, 2003, is due to applicant's failure to maintain a current correspondence address with the Office, as required. In view of applicant's failure, based on the facts of record, the petition cannot be granted under 37 CFR 1.181. It is also noted that the petition was not submitted within TWO MONTHS of applicant's notification of the abandoned status of this application as required under 37 CFR 1.181(d) and in consequence thereof a terminal disclaimer would be required before revival of this application could be effected.

The petition is **DISMISSED**.

Applicant may submit a renewed petition under 37 CFR 1.181 providing additional facts and/or evidence to show that a proper change of address was timely submitted. Alternatively, applicants may submit a petition under 37 CFR 1.137(b) for unintentional abandonment. Any renewed petition must be submitted within TWO MONTHS of the date of mailing of this petition decision.

A copy of the Office action mailed November 19, 2003, is included with this decision for applicant's convenience.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN E. BURKE
GREENBERG TRAURIG LLP
1200 17TH STREET, SUITE 2400
DENVER CO 80202

COPY MAILED

AUG 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith D. Allen et al	:	
Application No. 10/015,948	:	DECISION GRANTING PETITION
Filed: December 11, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. R-605	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of November 19, 2003, 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 1632.

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

DEC 12 2005

Marc Kaufman
NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, D.C. 20004-2128

In re Application of	:	
Mark J. Stefik et al.	:	DECISION ON PETITION
Application No. 10/015,950	:	TO WITHDRAW THE
Filed: December 17, 2001	:	HOLDING OF ABANDONMENT

For: COMPOSITE DIGITAL WORKS HAVING USAGE RIGHTS AND METHOD FOR CREATING THE SAME

This is in reply to applicants' petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on April 11, 2005.

The petition is **GRANTED.**

A review of the file record reveals that a Notice of Allowance and Fee(s) Due (hereinafter the Office action) was mailed October 22, 2004. No reply to the Office action mailed October 22, 2004 was received by the Office.

Petitioners state that the Office action mailed October 22, 2004 was never received.

Further review of the application file record reveals that the Office action mailed on October 22, 2004, was returned to the Office as being undelivered on November 2, 2004. The application file record also reveals that there has been no change in address for the applicants and that all other Office communications mailed to the applicants' address were received. The application file record and the petitioners' statement that the Office action mailed on October 22, 2004, was not received by the applicants, provides sufficient proof that the applicants did not receive the Office action.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to redate and remail the Notice of Allowability and the Notice of Allowance and Fee Due (PTOL-85), originally mailed on October 22, 2004. It is noted that the petitioner paid the issue fee on April 11, 2005. However, the petitioner is **still required** to return PTOL-85B within three months of the mailing date of the Notice of Allowance **or the application will be regarded as abandoned**. Petitioner should include with the PTOL-85B a letter explaining that the issue fee has already been paid.

Randolph A. Reese
Special Program Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/bkg: 12/7/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 13 2007

OFFICE OF PETITIONS

GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080

In re Application	:	
Eaton, et al.	:	
Application No. 10/015,967	:	DECISION ON PATENT TERM
Filed: December 7, 2001	:	ADJUSTMENT
Attorney Docket No. 22338-501	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed April 24, 2007, requesting correction of the initial determination of patent term adjustment (PTA) from zero (0) days to two hundred ninety-eight (298) 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 ninety-eight (298) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 24, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On April 24, 2007,

Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred ninety-eight (298) days.

Applicants assert entitlement to a patent term adjustment of two hundred ninety-eight (298) days on the basis that the PTO improperly assessed Applicants a delay of four hundred forty-two (442) days for filing an Amendment and an Information Disclosure Statement (IDS) on November 16, 2006, after Applicants had filed a Request for Reinstatement of Appeal and Appeal Brief on August 31, 2005.

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 zero (0) days based on an adjustment for PTO delay of forty-two (42) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), one (1) day pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), and three hundred eighty-nine (389) days pursuant to 35 U.S.C. 154(b)(1)(A)(iv) and 37 C.F.R. § 1.703(a)(4), reduced by Applicants' delays of four hundred forty-two (442) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8) and forty-four (44) and ninety (90) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b).

A review of the application file reveals that the Amendment filed on November 16, 2006, contained a statement that it was being filed in response to a request from the Examiner. Further, the Amendment and IDS were filed after the filing of an appeal brief, when the application continued to be under appeal. Under the circumstances, no applicant delay should have been assessed.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **two hundred ninety-eight (298) days** (432 days of PTO delay and 134 (90+44) days of applicant delay).

The $200 fee under 37 C.F.R. 1.18(e) has been charged to Deposit Account No. 18-1260, as authorized.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

---

[1] Applicants filed the application for patent term adjustment together with the payment of the issue fee.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: updated PAIR screen (2 pages)

Day : Wednesday

PALM INTRANET

Date: 9/12/2007
Time: 17:36:27

PTA Calculations for Application: 10/015967			
Application Filing Date:	12/07/2001	PTO Delay (PTO):	432
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	576
Post-Issue Petitions:	0	Total PTA (days):	298
PTO Delay Adjustment:	442		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
87	09/12/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	442		
70	01/24/2007	MAIL NOTICE OF ALLOWANCE	389		60
69	01/22/2007	ISSUE REVISION COMPLETED			
68	01/22/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	01/22/2007	NOTICE OF ALLOWABILITY			
66	12/14/2006	DATE FORWARDED TO EXAMINER			
65	11/16/2006	SUPPLEMENTAL RESPONSE		442	60
64	08/30/2006	MISCELLANEOUS INCOMING LETTER			
63	09/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
61	12/14/2006	DATE FORWARDED TO EXAMINER			
60	08/31/2005	APPEAL BRIEF FILED			
59	08/31/2005	NOTICE OF APPEAL FILED			
58	06/03/2005	MAIL NON-FINAL REJECTION			
57	05/31/2005	NON-FINAL REJECTION			
45	03/24/2005	DATE FORWARDED TO EXAMINER			
44	03/18/2005	APPEAL BRIEF FILED			
43	03/18/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	03/23/2005	MAIL ADVISORY ACTION (PTOL - 303)			
41	03/18/2005	ADVISORY ACTION (PTOL-303)			
40	02/23/2005	DATE FORWARDED TO EXAMINER			
39	02/15/2005	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
38	02/15/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			

37	09/21/2004	MAIL ADVISORY ACTION (PTOL - 303)			
36	09/20/2004	ADVISORY ACTION (PTOL-303)			
35	08/31/2004	DATE FORWARDED TO EXAMINER			
34	08/19/2004	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
33	08/19/2004	NOTICE OF APPEAL FILED		44	29
32	08/19/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	08/19/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	08/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	04/06/2004	MAIL FINAL REJECTION (PTOL - 326)	1		25
28	04/05/2004	FINAL REJECTION			
27	12/05/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	25
26	02/04/2004	DATE FORWARDED TO EXAMINER			
25	12/05/2003	RESPONSE AFTER NON-FINAL ACTION		90	23
24	12/05/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	06/06/2003	MAIL NON-FINAL REJECTION			
22	06/02/2003	NON-FINAL REJECTION			
21	04/11/2003	DATE FORWARDED TO EXAMINER			
20	04/07/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
19	03/07/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	03/21/2003	MAIL RESTRICTION REQUIREMENT	42		-1
17	03/20/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/21/2003	CASE DOCKETED TO EXAMINER IN GAU			
15	04/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	08/09/2002	APPLICATION DISPATCHED FROM OIPE			
13	08/09/2002	APPLICATION IS NOW COMPLETE			
11	06/05/2002	ADDITIONAL APPLICATION FILING FEES			
10	06/05/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	06/05/2002	SMALL ENTITY STATEMENT (37 CFR 1.27)			
8	06/05/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

7	07/03/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	05/15/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/16/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	04/12/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/07/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

UNITED STATES 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 A. Bernadicou
Blakeley, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard, 7th Floor
Los Angeles, CA 90025

COPY MAILED

MAR 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Fern Nee Tan, et al.	:	
Application No. 10/015,980	:	ON PETITION
Filed: December 13, 2001	:	
Attorney Docket No. 42P13112	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Publishing Division to be processed into a patent.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6,772,638	2004-08-10	10/015,982	2001-10-30	OS 98-017

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)	2010-02-20
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. 6772638
Issue Date: August 10,2004
Application No. 10015982
Filed: October 30,2001
Attorney Docket No. OS 98-017

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed February 20,2010 ,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 20,2010 . 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Stephen Carter	: DECISION ON REQUEST FOR
Patent Number	: 7603104	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/015,996	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **220** 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

SEP 11 2002

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Application of	:
Federico Mailland	:
Serial No.: 10/016,005	: PETITION DECISION
Filed: November 1, 2001	:
Attorney Docket No.: 9056-5CT	:

This is in response to applicant's petition under 37 CFR 1.181, filed June 17, 2002, requesting withdrawal of finality of an Office action.

A review of the file history shows that this application was filed November 1, 2001 and is a continuation of SN 09/454,364, filed December 3, 1999. Subsequent to the filing of this application applicant filed a preliminary amendment which was received in the Office on April 10, 2002 (Certificate of Mailing dated March 28, 2002). On April 3, 2002, the examiner mailed a first Office action which was a Final rejection to applicant, setting a three month shortened statutory period for reply. It is noted that the summary page of the Office action indicates that the Office action is a Final rejection, however the body of the Office action gives no reasons for and does not confirm that the Office action is a Final rejection.

37 CFR 1.115 states as follows (note also M.P.E.P. 714.03(a):

(a) A preliminary amendment is an amendment that is received in the Office (§ 1.6) on or before the mail date of the first Office action under § 1.104.
(b)(1) A preliminary amendment will be entered unless disapproved by the Commissioner. A preliminary amendment may be disapproved if the preliminary amendment unduly interferes with the preparation of a first Office action in an application. Factors that will be considered in disapproving a preliminary amendment include:
(i) The state of preparation of a first Office action as of the date of receipt (§ 1.6) of the preliminary amendment by the Office; and
(ii) The nature of any changes to the specification or claims that would result from entry of the preliminary amendment.
(2) A preliminary amendment will not be disapproved if it is filed no later than:
(i) Three months from the filing date of an application under § 1.53(b);
(ii) The filing date of a continued prosecution application under § 1.53(d); or
(iii) Three months from the date the national stage is entered as set forth in § 1.491 in an international application.
(c) The time periods specified in paragraph (b)(2) of this section are not extendable.

It is noted that the amendment was not received within three months of the filing of the application and was actually received after preparation and mailing of the Office action. M.P.E.P. 714.01(e) addresses consideration of preliminary amendments received after the mailing of an Office action, as follows:

> A preliminary amendment is an amendment that is received in the Office on or before the mail date of the first Office action under 37 CFR 1.104. See 37 CFR 1.115(a). If the date of receipt (37 CFR 1.6) of the amendment is later than the mail date of the first Office action and is not responsive to the first Office action, the Office will not mail a new Office action, but simply advise the applicant that the amendment is nonresponsive to the first Office action and that a responsive reply must be timely filed to avoid abandonment. See MPEP § 714.03.
> Preliminary amendments should either accompany the application or be filed after the application has received its application number and filing date. See MPEP § 502.

In view of the guidance of the M.P.E.P. the preliminary amendment received April 10, 2002, will be treated as a response to the Office action mailed April 4, 2002. Because that Office action did not confirm the finality thereof in the body of the Office action it will be considered a non-Final Office action.

DECISION

Applicant's petition is **GRANTED.** The Finality of the last Office action, mailed April 4, 2002, is withdrawn.

The application will be forwarded to the examiner for consideration of the amendment filed April 10, 2002.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230..

for John Doll
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

DEC 14 2004

SHWNA CANNON LEMON
MYERS, BIGEL, SIBLEY & SAJOVIC, PA
P. O. BOX 37428
RALEIGH, NC 27627

In re Application of	:
Fredereico Mailand	:
Serial No.: 10/016,005	: PETITION DECISION
Filed: November 1, 2001	:
Attorney Docket No.: 9056-5CT	:

This is in response to the petition under 37 CFR 1.181, filed July 14, 2004, requesting waiver of extension of time fees.

A review of the file history shows that the examiner mailed a Final Office action to applicant on January 14, 2004, setting a three month shortened statutory period for reply. Applicants state that a reply to the Final Office action was filed February 23, 2004, and received by the Office as evidenced by an Office date stamped return postcard. These papers were never correlated with the file and were not seen by the examiner until applicant filed a facsimile copy of the reply on June 14, 2004. Applicants filed a Notice of Appeal on July 14, 2004, (the final day of the maximum six month statutory reply period) prior to receiving an Advisory Action and requests that no extension of time fee be assessed in view of Office policies.

The petition is **GRANTED**. No fees for extension of time have been required for filing the Notice of Appeal.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 9

Howard Hong-Dough Lee
4350 Derry Road
Bloomfield, MI 48302

COPY MAILED
APR 21 2004
OFFICE OF PETITIONS

In re Application of
Howard Hong-Dough Lee
Application No. 10/016,011
Filed: December 17, 2001
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on April 9, 2004, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on November 20, 2003, after no response was received to the non-final Office action mailed August 19, 2003. The non-final Office action set shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on November 20, 2003. A Notice of Abandonment was mailed on April 9, 2004.

In the instant petition, petitioner maintains that the non-final Office action was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Although petitioner has offered a statement that petitioner's records where searched, but the Office communication was not found, petitioner did not provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,330.00 for a large entity and $665.00 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:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

UNITED STATES 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

Howard Hong-Dough Lee
4350 Derry Road
Bloomfield, MI 48302

COPY MAILED
JUL 0 8 2004
OFFICE OF PETITIONS

In re Application of Howard Hong-Dough Lee Application No. 10/016,011 Filed: December 17, 2001 Attorney Docket No.	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) filed April 27, 2004.

The petition is **granted**.

This application became abandoned for failure to file a timely reply to the non-final Office action mailed August 19, 2003. The Notice set forth an extendable statutory period for reply of three months from its mailing date. Accordingly, this application became abandoned on November 20,2 003. A Notice of Abandonment was mailed April 9, 2004.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has meet the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned, at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PLEVY & HOWARD, P.C.
P.O. BOX 226
FORT WASHINGTON PA 19034

COPY MAILED
AUG 3 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Kurtz et al.	:	
Application No. 10/016,035	:	ON PETITION
Filed: December 12, 2001	:	
Attorney Docket No. Kulite-66	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 22, 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 of Drawing Inconsistency With Specification (Notice) mailed August 12, 2004, which set a period for reply of one (1) month. Accordingly, the above-identified application became abandoned on September 13, 2004. A Notice of Abandonment was mailed October 21, 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
www.uspto.gov

Paper No. 7

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN, NJ 08830

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Wei et al. :
Application No. 10/016,096 : ON PETITION
Filed: January 21, 2000 :
Attorney Docket No. 2001P18253US01 :

This decision concerns the February 25, 2004 "Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)." The petition asserts timely reply to a USPTO notice and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in this application.

The petition is **GRANTED.**

The application was held abandoned on May 16, 2002 for failure to timely submit a proper oath or declaration as required by the March 15, 2002 "Notice to File Missing Parts of Nonprovisional Application" ("3/15/02 Notice").

The instant petition asserts timely response to the 3/15/02 Notice. In support, the petition is accompanied by a copy of a postcard receipt indicating receipt in the USPTO on April 18, 2002 of, *inter alia*, 2 executed declarations for this application.[1] Copies of the declarations purportedly filed on April 18, 2002 are also enclosed with the petition. In addition, Assignee's deposit account was charged on April 18, 2002 the $130 surcharge for late filing of an acceptable oath or declaration.

In view of the above, the Office concludes that these declarations had been timely filed in the USPTO on April 18, 2002, but was later misplaced. Accordingly, the application was not abandoned. The holding of abandonment in this application is thus withdrawn and the petition is granted. No petition fee is owed.

The January 16, 2004 Notice of Abandonment is hereby vacated.

The application is complete.

---

[1] One declaration signed by one of the three inventors, the other signed by the remaining two inventors.

In addition, on February 27, 2004, Assignee's deposit account, No. 19-2179, was charged the $130 surcharge for late filing of a proper oath/declaration. Since the surcharge was already paid on April 18, 2002, the duplicate charge of $130 has been credited to the same account as authorized in the original application fee transmittal.

Finally, the petition also requests correction of the filing date which must be addressed in a separate petition.[2]

The application file is being forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[2] 37 CFR 1.4(c) ([E]ach distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/016,096	12/10/2001	2621	870	2001P18253US01	5	11	3

CONFIRMATION NO. 7847

CORRECTED FILING RECEIPT

OC000000016180436

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

Date Mailed: 06/02/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Guo-Qing Wei, Plainsboro, NJ;
Jianzhong Qian, Princeton Junction, NJ;
Helmuth Schramm, Neunkirchen, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/326,358 10/01/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/016,096

Projected Publication Date: 09/08/2005

Non-Publication Request: No

Early Publication Request: No

Title

Endplate detection in digital radiography by dynamic programming using both local and global constraints

Preliminary Class

382

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 7

DAVID MCEWING
PO BOX 231324
HOUSTON, TX 77023

COPY MAILED

MAY 2 5 2004

OFFICE OF PETITIONS

In re Application of :
DuPhily :
Application No. 10/016,101 : ON PETITION
Filed: October 31, 2001 :
Attorney Docket No. MicroD-02 :

This decision concerns the January 28, 2004 petition under 37 CFR 1.137(a) which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

On January 24, 2002, a "Notice to File Corrected Application Papers" ("1/24/02 Notice") was mailed, stating that the application had been accorded a filing date, and requesting, *inter alia*, substitute drawings in compliance with the margins requirements of 37 CFR 1.84.[1] Applicant was given an extendable 2-month reply period. No response was filed on or before August 24, 2002, and no extension of time under 37 CFR 1.136(a) was obtained. The application became abandoned on March 25, 2002.

It appears from the instant petition that counsel is unaware of the 1/24/02 Notice. In fact, the Office discovered that the 1/24/02 Notice had been mailed to a wrong address.

In view of the above, the application should not have been held abandoned. The petition is thus granted. The holding of abandonment in this application is hereby withdrawn, and the December 10, 2003 Notice of Abandonment vacated.

No petition fee is owed. The $55 submitted with the petition has been refunded.

The application file is being returned to the Office of Initial Patent Examination for re-mailing of the 1/24/02 Notice, and for mailing of a corrected Filing Receipt reflecting the correct domestic priority data.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

Attachment: 1/24/02 Notice (courtesy copy)

---

[1] The notice also requested extra claims fees.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington VA 22201-4714

MAIL

APR 05 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Green, et al. :
Application No. 10/016,119 :
Filed: December 17, 2001 :
For: SATELLITE BROADCAST RECEIVING :
AND DISTRIBUTION SYSTEM :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special filed August 26, 2003 (paper No. 10) and resubmitted March 9, 2004 (paper No. 12) under MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes statement by Mr. James A. Green Sr. and Mr. Austin S. Coker, Jr., in support of the petition, evidencing that they are over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

JUN 3 2003

UR
PAPER NO. 7

In re Application of
Ali Rusta-Sellehy et al.
Serial Number: 10/016,132
Filed: December 17, 2001
For: CHEMICAL HYDRIDE HYDROGEN REACTOR AND GENERATION SYSTEM

DECISION ON PETITION UNDER M.P.E.P. 708.02, VI

This is in response to the petition filed April 29, 2003, requesting that the above-identified application be granted Special Status under Section 708.02 (VI) of the MPEP and 37 CFR 1.102(c).

The petition has been considered and found to comply with the requirements set forth under the above-noted section. Accordingly the petition is granted.

The petition is **GRANTED.**

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Bereskin and Parr
Scotia Plaza
40 King Street West- Suite 4000 Box 401
Toronto, ON M5H 3Y2
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#12

MAILED

FEB 23 2004

Office of the Director
Group 3000

Paper No. 12

In re Application of SYRJARINNE ET AL.
Appl. No.: 10/016,139
Filed: December 12, 2001
For: METHOD AND APPARATUS FOR SAVING POWER IN A GLOBAL POSTIONING SYSTEM RECEIVER

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a response to the petition under 37 CFR 1.59(b), filed January 14, 2003 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a document entitled Method and Apparatus for Saving Power in a Global Positioning System , filed December 12, 2001, 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 decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.

Donald T. Hajec
Director, T.C. 3600
703-306-4180

tht: 2-23-03
kjd: 2-23-03

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

JUL 0 6 2004

Office of the Director
Group 3600

Ware Fressola Van Der Sluys &
Adolphson, LLP
Bradford Green Building 5
755 Main Street, P.O. Box 224
Monroe, CT 06468

Paper No. 11

In re Application of SYRJARINNE ET AL
Appl. No.: 10/016,139
Filed: December 12, 2001
For: METHOD AND APPARATUS FOR SAVING POWER IN A GLOBAL POSITIONING SYSTEM RECEIVER

DECISION OF PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed January 14, 2003 under 37 CFR 1.59(b) to expunge information from the above identified application.

Petitioner requests that a document entitled Nano R1 Navigation Filter be expunged from the record. Petitioner states that the document was unintentionally submitted. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The petition is granted.

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 is returned herewith.

Enclosure: Nano R1 Navigation Filter document

Donald T. Hajec
Director, T.C. 3600
703-306-4180

tht: 6-21-04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

COPY MAILED

NOV 15 2006

OFFICE OF PETITIONS

In re Application of
Richard H. Frenkiel, et al.
Application No. 10/016,141
Filed: December 17, 2001
Attorney Docket No. 529022000100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 11, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw less than all attorneys appointed by customer number 25227 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice. All attorneys appointed in the original oath and declaration are not listed on the customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER G. IZZO, ESQ.
RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY
ASB III, 3 RUTGERS PLAZA
3RD FLOOR
NEW BRUNSWICK, NJ 08901-8559

UNITED STATES 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. 081604

NORMAN CARTE
MYERS, DAWES & ANDRAS
19900 MACARTHUR BLVD.
SUITE 1150
IRVINE, CA 92612

In re Application of:	:	
Zhao	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/016,166	:	
Filed: November 30, 2001	:	
Attorney Docket No.: **CIR1.PAU.14**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 1, 2003.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Rutan & Tucker was filed on December 22, 2003. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Robert D. Fish
Rutan & Tucker, LLP
611 Anton Blvd., 14th floor
Costa Mesa, CA 92626-1931

UNITED STATES 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

CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 61629-6490

COPY MAILED

JUL 0 2 2004

OFFICE OF PETITIONS

In re Application of
James W. Landes, et al.
Application No. 10/016180
Filed: December 6, 2001
Attorney Docket No. 00-102

ON PETITION

This is a decision in response to a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed July 1, 2004.

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 June 14, 2004, using a Certificate of Mailing under 37 CFR 1.8 dated 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.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3747 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND, OR 97201

COPY MAILED

JAN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
William Ho Chang, et al.	:	
Application No. 10/016,223	:	
Filed: November 1, 2001	:	
Attorney Docket No. 1282-002/MMM	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 26, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 27, 2006. *See* MPEP 1215.04. On October 3, 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 a Request for Continued Examination (RCE) , including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2145 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAR 22 2004

Paper No. 15

In re Application of
Marc Feinberg *et al*
Application No. 10/016,240
Filed: December 10, 2001
Attorney Docket No. ETH-1605

DECISION ON PETITION

This is a decision on the petition filed on February 26, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated May 20, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed. In support of this allegation, petitioners have furnished a copy of the reply, a copy of a petition for a one month extension of time that includes an authorization to charge the extension fee, and a copy of a post card receipt acknowledging that these papers were received in the Office on June 27, 2003. It is clear, from this evidence that the application is not abandoned for failure to file a proper and timely reply to the Office letter dated May, 2003. In addition, Office financial records show that the fee for the extension of time was received and applied.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner for action on the reply filed on June 27, 2003

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

UNITED STATES 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. 6915901
Issue Date: July 12,2005
Application No. 10016240
Filed: December 10,2001
Attorney Docket No. ETH-1605

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 2,2009 ,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 2,2009 . 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)
6915901	2005-07-12	10016240	2001-12-10	ETH-1605

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-10-02
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

COPY MAILED

OCT 1 0 2003

OFFICE OF PETITIONS

Paul S. Hunter
FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

In re Application of :
Todd P. Lukanc :
Application No. 10/016,273 :
Filed: December 11, 2001 :
Attorney Docket No. 039153-0450 (G1155) :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 22, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 9, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b)/(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the USPTO of a foreign or international

filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 15, 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 1756 to await a reply to the non-final Office action mailed September 3, 2003.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances M. Hicks
Lead Petitions Examiner

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Mark S. Leonardo
Brown Rudnick Berlack Israels LLP
One Financial Center
Box IP 18th Floor
Boston, MA 02111

COPY MAILED

AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of
Roy L. Barrus, et al.
Application No. 10/016,276
Filed: December 6, 2001
Attorney Docket No. SHP024.2

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed November 12, 2004, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed May 14, 2004.

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 petition does not comply with item (1) noted above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming benefit of one or more prior-filed copending 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 reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference those prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

In the concurrently filed amendment, it is stated, "...U. S. Utility Patent Application Serial No. 09/619,190, filed July 19, 2000, which claims benefit of U. S. Provisional Application Serial No. 254,506 filed in the USPTO on December 8, 2000 by Thorne et al., U. S. Provisional Application Serial No. 60/275,886, filed March 14, 2001 and U. S. Provisional Application Serial No. 60/296,968 filed in the USPTO on June 8, 2001 by Barrus et al..."

An application cannot claim priority to a subsequently filed application. The three provisional applications were filed after the aforementioned nonprovisional application (Application No. 09/619,190). If petitioner is claiming benefit of the provisional applications to the instant application (Application No. 10/016,276), then a substitute amendment indicating such should be submitted.

Before the petition under 37 CFR §§ 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a substitute amendment or an Application Data Sheet (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

Frances Hicks

Frances M. Hicks
Lead 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

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 225
MELVILLE NY 11704

COPY MAILED

AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
ROY L. BARRUS, et al.	:	
Application No. 10/016,276	:	DECISION DISMISSING PETITION
Filed: December 6, 2001	:	UNDER 37 CFR 1.78(a)(3) and (a)(6)
Attorney Docket No. S-8492 (1502-71 CIP II)	:	

This is a decision on the **renewed** petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to prior-filed nonprovisional and provisional applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(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 § 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 amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414.

Frances Hicks
Lead Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 06-06

Paper No: __

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

COPY MAILED

JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Konowalchuk, et al. :
Application No. 10/016,282 :
Filed: 6 December, 2001 :
Attorney Docket No. LFT CIP3 :

ON PETITION

This is a decision on a petition filed on 26 April, 2006, 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 **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 February, 2005, with reply absent extension of time on or before Monday, 9 May, 2006;

- the instant application went abandoned by operation of law after midnight 8 May, 2006;

- the Office mailed a Notice of Abandonment on 21 September, 2005;

- on 26 April, 2006, Petitioner filed the instant petition with fee, and, *inter alia*, made the reply in the form of an amendment and sought to make the statement of unintentional delay, however, Petitioner was not of record at the time the application went abandoned and so is not able to make such a statement of unintentional delay, which must be made by the person(s) of record at the time of abandonment–thus, Petitioner appears not to have satisfied the "statement" regulatory requirements under 37 C.F.R. §1.137(b);

- out of an abundance of caution, Petitioners always are reminded that each request to the Office must be filed as a separate paper (see: 37 C.F.R. §1.4(c)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document,

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has not satisfied the "statement" requirements of the regulation.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[8]

By mail: Commissioner for Patents[9]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

---

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-067

Paper No: __

COPY MAILED
AUG 27 2007
OFFICE OF PETITIONS

QUINE INTELLECTUAL
PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA CA 94501

In re Application of	:	
Konowalchuk, et al.	:	
Application No. 10/016,282	:	ON PETITION
Filed: 6 December, 2001	:	
Attorney Docket No. LFT CIP3	:	

This is a decision on a petition filed on 21 August, 2006, under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 8 February, 2005, with reply absent extension of time on or before Monday, 9 May, 2006;
- the instant application went abandoned by operation of law after midnight 8 May, 2006;
- the Office mailed a Notice of Abandonment on 21 September, 2005;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- on 26 April, 2006, Petitioner filed the original petition with fee, and, *inter alia*, made the reply in the form of an amendment and sought to make the statement of unintentional delay, however, Petitioner was not of record at the time the application went abandoned and so is not able to make such a statement of unintentional delay, which must be made by the person(s) of record at the time of abandonment–thus, Petitioner appears not to have satisfied the "statement" regulatory requirements under 37 C.F.R. §1.137(b)–and for these reasons the petition was dismissed on 19 June, 2006;

- the instant petition, filed on 21 August, 2006, with fee, reflecting the prior-filed reply, and providing a history of the oversight of the instant application–now evidencing that the application went abandoned while in the Office of Petitioner thereby making him eligible to make the statement of unintentional delay–Petitioner's vigorous, if erroneous, assertion that the statement does not have to be made by the person under whose official control the application went abandoned apparently fails to appreciate both the requirements of the regulation and the guidance set forth by the Office in the Commentary at MPEP §711.03(c)–specifically sections II-D, *et seq.*.

Out of an abundance of caution, Petitioners always are reminded that each request to the Office must be filed as a separate paper (see: 37 C.F.R. §1.4(c)), and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not

---

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 1600 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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

COPY MAILED

MAR 3 1 2008

In re Application of	:	
KONOWALCHUK, Thomas W. et al.	:	
Application No. 10/016,282	:	DECISION ON PETITION
Filed: December 06, 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 December 13, 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 Jonathan A. Quine on behalf of all attorneys of record who are associated with customer No. 22798. All attorneys/agents associated have been withdrawn.

The correspondence address of record to customer No. 22434 remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BEYER WEAVER LLP**
P.O. BOX 70250
OAKLAND, CA 94612-0250

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

Mathews, Collins, Shepherd & Gould, P.A.
Suite 306
100 Thanet Circle
Princeton, NJ 08540

COPY MAILED

APR 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Troian et al. :
Application No. 10/016,294 :
Filed: November 2, 2001 :
Attorney Docket No. 4555-110 :

ON PETITION

This is a decision on the petition filed February 4, 2002, to accord the above-identified application a filing date of November 2, 2001, instead of November 5, 2001.

The petition is **granted**.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that: . . .
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the requirements of 37 CFR 1.10(d) have been met. Therefore, the application will be accorded a filing date of November 2, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 2, 2001.

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

BEST AVAILABLE 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

CERUS CORPORATION
C/O MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

COPY MAILED

JUN 1 4 2004

OFFICE OF PETITIONS

In re Application of	:
Derek J. Hei et al	:
Application No. 10/016,323	: DECISION ON PETITION
Filed: December 10, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 282172000404	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 29, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment embodied in the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on December 10, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed

nonprovisional applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center Art Unit 1651 for appropriate action on the amendment filed April 29, 2004, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications set forth in the amendment embodied in the instant petition.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

COPY MAILED

DEC 0 7 2004

Director's Office
Office of Patent Publication

CARDINAL HEALTH
7000 CARDINAL PLACE
LEGAL DEPARTMENT - INTELLECTUAL PROPERTY
DUBLIN, OH 43017

In re Application of
Keith Tanner, et al. :
Application No. 10/016,352 : **DECISION ON PETITION**
Filed: November 20, 2001 :
Attorney Docket No. RPS6097-US :

This is a decision on the Petition To Withdraw The Holding Of Abandonment Pursuant to 37 CFR § 1.181, received in the United States Patent and Trademark Office (USPTO) on October 5, 2004.

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 17, 2004, which set a three (3) month statutory period for reply. Accordingly, the Notice of Abandonment was mailed on September 24, 2004.

Petitioner states that the issue fee was filed via express mail on August 16, 2004. In support of this assertion petitioner has submitted herewith a copy of the Express Mail mailing label, post card, Part B – Fee(s) Transmittal, Notice of Allowability and the Examiners, Reason For Allowance. Also, a Statement In Support Of Petition To Withdraw Holding Of Abandonment — Declaration of Jennifer Warner—was received.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- **MPEP 503 (postcard receipt as prima facie evidence)**
- **Certificate of Mailing under 37 CFR 1.8(b)**
- **"Express Mail" Mailing under 37 CFR 1.10**

MPEP 503 **Return Postcard** is not applicable since there's no evidence that the postcard was returned with the "Office Date" stamp receipt thereon. *See MPEP 505*

Provisions under 37 CFR 1.8(b) requires that petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

Petitioner doesn't fully satisfy requirement (2) in that, the date indicated on the Certificate of Mailing of October 5, 2004, is after the date due for the paying the required fee(s). The applicant crossed out the date of August 16, 2004.

With respect to the submission under 37 CFR 1.10 **Express Mail** requires that the petitioner (1) promptly file the petition after becoming aware that the Office has no evidence of receipt of the correspondence, (2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s), (3) includes a copy of the originally deposited papers(s) or fee(s) showing the number of the "Express Mail" mailing label thereon, copy of the returned postcard receipt, copy of the "Express Mail" mailing label showing the "date in" and (3) includes a statement from the person who actually did the mailing.

Petitioner doesn't satisfy requirement (2) in that, the copy of the correspondence—Part B – Fee(s) Transmittal—doesn't include the number of the "Express Mail" mailing label, and the copy of the "Express Mail" mailing label doesn't show the "date-in".

The petitioner should consider petitioning as follows:

File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or 1203 of the Official Gazette 63, October 21, 1997, 65 FR 57057, Sept. 20, 2000, 68 FR 14332, Mar. 25, 2003, 69 FR 56481, Sept. 21, 2004.

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidably*** abandoned application must be accompanied by the following:

(1) The required reply to the outstanding Office action or notice, unless previously filed

- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be accompanied by the following:

  (1) The required reply 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 Director may require additional information where there is a question whether the delay was unintentional;
  (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this matter may be directed to the Office of Petitions at 703-305-9282.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARDINAL HEALTH, INC.
LEGAL DEPARTMENT
7000 CARDINAL PLACE
DUBLIN, OH 43017

COPY MAILED

JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Keith Tanner et al	:	
Application No. 10/016,352	:	ON PETITION
Filed: November 2, 2001	:	
Attorney Docket No. RPS6097-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being forwarded to the Publishing Division.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ALAN BURNS
108 RAMONA ROAD
PORTOLA VALLEY CA 94028

MAIL

MAY 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Gary Alan Hayer
Paul E. Graf
Alan Alexander Burns
Application No. 10/016,380
Filed: December 10, 2001
For: **BROADCAST AUDIENCE SURVEILLANCE USING INTERCEPTED AUDIO**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed April 1, 2005.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement signed by the inventor, stating that they are over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES 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 BEST & FRIEDRICH LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON, WI 53701

COPY MAILED

JUN 0 9 2008

In re Application of	:	
Leslie A. Holladay	:	
Application No. 10/016,403	:	DECISION ON PETITION
Filed: December 10, 2001	:	TO WITHFRAW
Attorney Docket No. ALZA-0879/ARC2179CON	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed June 7, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to the firm of Michael Best & Friedrich LLP has been revoked by the assignee of the patent application on July 6, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO CA 94303

COPY MAILED

OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Bailis et al.	:	
Application No. 10/016,449	:	DECISION ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. RPS920010127US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of January 17, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on March 18, 2008. *See* MPEP 1214.06. A Notice of Abandonment was mailed April 15, 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 $1,540.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2117 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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON OH 45479

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Wasserman et al.
Application No. 10/016,452
Filed: December 10, 2001
Title: Dynamic Event Selection For Financial Processing in a Relational Database Management System

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed October 16, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. An Appeal Brief was filed on August 8, 2005. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on October 27, 2005, providing petitioner with a one month reply period. A Notice of abandonment was mailed on October 5, 2006.

Petitioner requests the abandonment of the above-identified application be withdrawn because a reply in the form of a supplemental appeal brief was submitted on November 28, 2005. In support of petitioner's contention petitioner has provided a copy of the reply which contains a certificate of transmission, the sending units report and the auto-reply receipt.

A review of the record shows that the supplemental appeal brief submitted on November 28, 2005, contains a certificate of transmission pursuant to 37 CFR 1.8. Thus, the brief is considered as timely filed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

This application is being forwarded to Art Unit 3627 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: George H. Gates
Howard Hughes Center
6701 Center Drive West, Suite 1050
Los Angeles, California 90045

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 8

Perkins Coie LLP
PO Box 1247
Seattle, WA 98111-1247

COPY MAILED

JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
Brian Ross Cartmell et al.
Application No. 10/016,477
Filed: December 10, 2001
Attorney Docket No. 376448001US

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 25, 2003, under 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on December 10, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

Any inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

This application is being forwarded to Technology Center Art Unit 2134 for examination in due course.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne Morgan for
Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STREETS & STEELE
SUITE 355
13831 NORTHWEST FREEWAY
HOUSTON, TX 77040

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of	:	
Craig C. Andrews, et al.	:	
Application No. 10/016,482	:	ON PETITION
Filed: December 10, 2001	:	
Attorney Docket No. LYNN/0130.D	:	

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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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

FEB 2 2 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Micah D. Stolowitz
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204-3380

In re Application of:
Raymond KING et al.
Application No. 10/016,497
Filed: November 1, 2001
For: DOMAIN NAME ACQUISITION AND MANAGEMENT SYSTEM AND MEHTOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renew petition, filed on June 04, 2002 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 of June 04, 2002 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

MAIL

JUN 02 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Steven J. Munson
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204-1268

In re Application of:
Len Albert BAYLES
Application No. 10/016,498
Filed: November 1, 2001
For: REGISTRY-INTEGRATED INTERNET DOMAIN NAME ACQUISITION SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed June 4, 2002 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites

> set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission fails on two counts. The petition is deficient in that (1) it does not list the field of search by **class and subclass** as required by section (c) above; and (2) it does not meet the criterion (e) above because no clear indication is given specifically pointing out how the language of claims 1-10 patentably distinguishes from the references. Applicant discussed what is disclosed in the reference's Abstract.

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.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

Christopher V. Panoff
STOEL RIVES L.L.P.
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204-1268

MAILED

MAR 0 2 2004

Technology Center 2100

In re Application of:
Len Albert BAYLES
Application No. 10/016,498
Filed: November 1, 2001
For: REGISTRY-INTEGRATED INTERNET DOMAIN NAME ACQUISITION SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on August 8, 2003, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submissions of August 8, 2003 meet all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STOEL RIVES LLP
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204

COPY MAILED

FEB 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Bayles & King :
Application No. 10/016,498 :ON PETITION
Filed: November 1, 2001 :
Attorney Docket No. 10720/4:1 :
For: REGISTRY-INTEGRATED INTERNET
DOMAIN NAME ACQUISITION SYSTEM

This is a decision on (1) the petition under 37 CFR 1.48(a) to correct the inventorship in the above-identified application, (2) the constructive petition under 37 CFR 1.183 for waiver of 37 CFR 1.48(a)(3), which requires an executed oath or declaration by the actual inventors, and (3) the petition under 37 CFR 1.47(a), which will be treated as a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.67 and 1.63, which requires that a supplemental declaration be executed by all named inventors. Rule 47 has no application to Mr. Bayles because he executed a declaration on March 25, 2002. Any subsequent declaration he executes will be considered a supplemental declaration. MPEP 201.03. The first and second petitions listed above were filed on September 27, 2004 and the third was filed on September 30, 2004.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **GRANTED**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 and 1.63 is **GRANTED**.

The petition under 37 CFR 1.48(a) to correct inventorship is **GRANTED**.

An executed declaration in compliance with 37 CFR 1.63 was filed on March 25, 2002. The executed declaration listed a sole inventor – Len Albert Bayles.

The instant petitions were filed to correct the inventorship by adding Raymond King as a joint inventor. The evidence presented shows that Attorney Micah D. Stolowitz presented Mr. Bayles with a complete copy of the patent application and a declaration for patent application on August 13, 2004, but Mr. Bayles refused to execute the document. The Office finds that Mr. Bayles has refused to execute the supplemental declaration. It is agreed that, under the circumstances of this case, justice would be served by waiver of the rules where they require Bayles' signature on any

supplemental declaration. Petitioner has shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**. The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.67 and 1.63 is **granted**.

Petitioner has also satisfied the requirements of 37 CFR 1.48(a): Petitioner requested correction of inventorship and set forth the desired inventorship change; petitioner provided a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his part; petitioner successfully obtained waiver of the requirement that all the actual inventors execute the declaration; the processing fee was paid; and written consent of the assignee was submitted.

The petition under 37 CFR 1.48(a) is **granted**.

Petitioner has shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Raymond King as a joint inventor.

Please find enclosed a corrected filing receipt that reflects the inventorship change.

Regarding finances, three petitions (two actual and one constructive) were filed, but only two petition fees were paid. Therefore, deposit account no. 19-4455 will be charged an additional $130.00 petition fee.

After the mailing of this decision, the application will be forwarded to Technology Center 2100 for further examination.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrick J.S. Inouye
810 3rd Avenue
Suite 258
Seattle, WA 98104

MAILED

MAY 31 2005

Technology Center 2100

In re Application of:
Davide Libenzi
Application No. 10/016,509
Filed: December 10, 2001
For: SYSTEM AND METHOD FOR PROVIDING DYNAMIC SCREENING OF TRANSIENT MESSAGES IN A DISTRIBUTED COMPUTING ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed April 15, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for

Vincent N. Trans
Special Program Examiner
Technology Center 2100

cc: ZILKA-KOTAB, P.C.
P.O. Box 721120
San Jose, CA 95172-1120

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

COPY MAILED

MAR 03 2005

OFFICE OF PETITIONS

In re Application of
Minshall, Minshall, Skotzko, Conner
Application No. 10/016,528
Filed: October 30, 2001
For: ANTI-TUMOR VACCINE

: ON PETITION

This is a decision on the petition filed October 7, 2004, under 37 CFR 1.182 and MPEP 402.10 requesting intervention by the partial assignee and a separate revocation and appointment of a power of attorney as successor in title to the interest of John Conner.

The petition is **granted**.

In accordance with MPEP 402.10 and 37 CFR 1.182, the requested revocation of the prior power of John Conner to those counsel of Stetina Brunda Garred & Brucker indicated by customer number 07663, and appointment of those counsel of Wilson Sonsini Goodrich & Rosati associated with customer No. 21971 to represent CancerVax as the assignee of the interest of John Conner is **granted** as of the mail date of this decision.

In order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application--or resultant patent-- must be signed **both** by counsel currently associated with customer No. 7663 and those associated with customer No. 21971 appointed on the combined declaration and power of attorney present on filing, with the exception of maintenance fee payments. One of counsel already of record from customer No, 07663 will also be responsible for coordinating all replies or submissions to the USPTO. See MPEP 402.10. *Any registered practitioner signing subsequent papers must indicate whom he or she represents.* The correspondence address remains that of customer No. 07663 as given above. It should be noted that the USPTO does not have the ability to recognize more than one customer number at a time for a given application, so inspeciton of PAIR records will not reveal the names or address of counsel for Wilson Sonsini Goodrich & Rosati associated with customer No. 21971.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

Nevertheless, a courtesy copy of this decision is being mailed to counsel for CancerVax.

Telephone inquiries related to this decision should be addressed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

THELEN REID BROWN RAYSMAN & STEINER LLP
PO BOX 1510
NEW YORK, NY 10150-1510

COPY MAILED

JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Scott Alan Beckwith, et al. :
Application No. 10/016,529 :
Filed: December 10, 2001 :
Attorney Docket No. 8285-479 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2007, 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 August 23, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 24, 2006. A Notice of Abandonment was mailed on May 30, 2007. In response, on October 11, 2007, the present petition was filed.

The petition is not signed by an attorney or agent of record in the application. However, in accordance with 37 CFR 1.34(a), the signature of Timothy Bechen appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Bechen desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $1,050 extension fees included with this petition will be credited to counsel's deposit account.

This application is being referred to Technology Center AU 2152 for further processing of the RCE filed October 11, 2007 in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: TIMOTHY BECHEN
DREIER LLP
499 PARK AVENUE
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Marshall, O'Toole, Gerstein, Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6402

COPY MAILED

JUN 0 9 2008

In re Application of	:	
Scott Alan Beckwith et al.	:	
Application No. 10/016,529	:	DECISION ON PETITION
Filed: December 10, 2001	:	TO WITHFRAW
Attorney Docket No. AUS920065006US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed April 11, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Bruce Stuckman, Robert Gerstein and James Flight has been revoked by the assignee of the patent application on August 25, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: IBM Corp. (DRE)(AUS)
c/o Dreier LLP
499 Park Avenue
New York NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrick J.S. Inouye
810 3rd Avenue
Suite 258
Seattle, WA 98104

MAILED

JUL 12 2005

Technology Center 2100

In re Application of:
Libenzi et al.
Application No. 10/016, 533
Filed: December 10, 2001
For: SYSTEM AND METHOD FOR PERFORMING EFFICIENT COMPUTER VIRUS SCANNING OF TRANSIENT MESSAGES USING CHECKSUMS IN A DISTRIBUTED COMPUTING ENVIRONMENT

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1. 36 and 10.40(c) filed April 15, 2005.

A Revocation And Of Power Of Attorney Under 37 CFR § 1. 36 was filed on May 09, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed ZILKA-KOTAB, P.C. as the attorneys of record of the instant application. The Power Of Attorney filed May 09, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by ZILKA-KOTAB, P.C..

For the above stated reasons, the request is DISMISSED AS MOOT.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose CA 95113

COPY MAILED

OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of
Albert Young et al.
Application No. 10/016,558
Filed: December 6, 2001
Attorney Docket No. 3COM-3730.CTO.US.P
Title: SCHEME FOR DEVICE AND USER AUTHENTICATION WITH KEY DISTRIBUTION IN A WIRELESS NETWORK

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed August 30, 2005, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an international application on May 16, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an international application.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

A Notice of Rescission of Nonpublication Request was filed with the Office along with the present petition.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. Unfortunately, due to a software problem the Office is currently experiencing, the Office cannot determine the projected publication date at this time.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded.

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. 4

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins CO 80527-2400

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of
Vincent et al.
Application No. 10/016,560
Filed: October 30, 2001
Attorney Docket No. 10005742-1

DECISION DISMISSING PETITION

This is a decision on the petition filed March 21, 2002, requesting that the above-identified application be accorded a filing date of October 30, 2001, with page 5 of the specification as a part of the original disclosure.

The petition is dismissed.

The application was filed on October 30, 2001. However, on January 23, 2002, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of October 30, 2001; however, page 5 of the specification appeared to have been omitted.

In response, on March 21, 2001, applicants filed, inter alia, the present petition and a copy of page 5 of the specification. Applicants admit that page 5 of the specification was not submitted with the original application papers. However, applicants argue that the omitted page 5 does not contain any new matter, and therefore, should be accorded a filing date of October 30, 2001.

Whether page 5 of the specification, submitted on March 21, 2002, contains new matter is not the issue. Either page 5 was present in the United States Patent and Trademark Office on the filing date of the application or it was not. Because page 5 was not present on October 30, 2001, it cannot be considered a part of the original disclosure of the application. Therefore, the application cannot be accorded the filing date of October 30, 2001, with page 5 of the specification as a part of the original disclosure. The issue of new matter is one appropriately addressed by the primary examiner during prosecution of the application after the filing date of the application has been determined.

Since applicants seek to add page 5 of the specification to the above-identified application on the basis that the page does not contain new matter, no petition is necessary for that purpose. New pages of specification may be entered by the primary examiner without a petition so long as the pages contain no new matter.

See MPEP § 608.02(a). The appropriate procedure is by way of amendment requesting the entry of page 5. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner.

The petition fee will not be refunded because the petition was not necessitated by any error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 30, 2001, using pages 1-4 and 5-27 of the specification filed on that date.

Telephone inquiries specific to this matter 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
www.uspto.gov

Paper No. 6

COPY MAILED

JUN 0 5 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

jc872 U.S. PTO
10/016578
11/01/01

MARGER JOHNSON & MCCOLLOM PC
1030 SW MORRISON STREET
PORTLAND, OR 97205

9/09-13

In re Application of
James D. Parsons and B. Leo Kwak
Application No. 09/351,106
Filed: July 6, 1999
For: ADHESION AND/OR ENCAPSULATION OF SILICON CARBIDE-BASED SEMICONDUCTOR DEVICES ON CERAMIC SUBSTRATES

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the "Petition Under 37 CFR 1.47(b)," filed July 6, 1999 (and followed up by copies on September 30, 1999 and October 4, 1999).

The petition is granted.

Petitioner has shown that the non-signing inventor James D. Parsons has refused to join in the filing of the above-identified application after having been presented with the application and that non-signing co-inventor B. Leo Kwak cannot be located nor will the inventors respond to E-mails sent to them. Specifically, the declaration/statement of facts of Alexander C. Johnson, Jr. and Donald E. Hagge establishes that the inventors were mailed the application papers, including the specification, claims and drawings, but that inventor Parsons failed to respond to the request that he sign the declaration and the package containing the specification, claims and drawings sent to co-inventor Kwak was returned as undeliverable. In addition, petitioner has shown that 3C Semiconductor Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventors had an obligation to assign any patent rights to 3C Semiconductor Corporation. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

It is noted that, while 3C Semiconductor Corporation has established a sufficient proprietary interest in the subject matter of the instant application, no assignment agreement from the inventor to 3C Semiconductor Corporation, has been submitted. Therefore, 3C Semiconductor Corporation is considered the Rule 47 applicant but not the assignee of the instant application.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventors at their last known addresses. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this communication should be directed to Frances Hicks at (703) 305-8680.

After this decision is mailed, the above-identified application will be forwarded to Technology Center AU 2812 for examination in the normal course of business.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

JAMES D. PARSONS
15900 S.W. RAVEN COURT
BEAVERTON, OREGON 97007

COPY MAILED

JUN 05 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

jc872 U.S. PTO
10/016578
11/01/01

In re Application of
James D. Parsons and B. Leo Kwak
Application No. 09/351,106
Filed: July 6, 1999
For: ADHESION AND/OR ENCAPSULATION OF SILICON CARBIDE-BASED SEMICONDUCTOR DEVICES ON CERAMIC SUBSTRATES

Dear Mr. Parsons:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at(703) 305-8680. 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).

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Marger Johnson & McCollom PC
1030 SW Morrison Street
Portland, Oregon 97205

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

B. LEO KWAK
1915 N.W. 173RD AVENUE, #1703
BEAVERTON, OREGON 97077

COPY MAILED

JUN 05 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

jc872 U.S. PTO
10/016578
11/01/01

In re Application of
James D. Parsons and B. Leo Kwak
Application No. 09/351,106
Filed: July 6, 1999
For: ADHESION AND/OR ENCAPSULATION OF SILICON CARBIDE-BASED SEMICONDUCTOR DEVICES ON CERAMIC SUBSTRATES

Dear Mr. Kwak:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at(703) 305-8680. 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).

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
Marger Johnson & McCollom PC
1030 SW Morrison Street
Portland, Oregon 97205

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS, MN 55402

COPY MAILED
JAN 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Theodore D. Wugofski	:	
Application No. 10/016,585	:	ON PETITION
Filed: October 22, 2001	:	
Attorney Docket No. 450.256US2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on October 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 26, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and terminal disclaimer with fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

Since there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application, in accordance with 37 CFR 1.34(a), the signature of Jeffrey A. Proehl appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application will be directed solely to the address of record until otherwise instructed.

The application file is being referred to Technology Center Art Unit 2173, for review of the amendment filed with the instant petition.

The Power of Attorney filed March 10, 2005, failed to comply with the requirements of 37 CFR 3.73(b); therefore, it has not been accepted nor made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jeffrey A. Proehl
Leonard & Proehl, Prof. L.L.C.
3500 South First Avenue Circle – Ste. 250
Sioux Falls, SD 57105-5807

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

NOV 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Loop et al. :
Application No. 10/016,653 :
Filed: December 5, 2002 :
For: DESICCANT BAG WITH ENCLOSED EAS :
TAG AND SECURITY MARKINGS :

LETTER AND NOTICE OF ABANDONMENT

This letter is in response to a Petition for Extension of Due Date for Filing Signed Declaration, filed August 12, 2002.

A review of the file reveals that on January 10, 2002, this Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") to Petitioner which set a two (2) month, period for reply. The Notice required the filing fee, $370; the oath or declaration and surcharge for late filing of the oath or declaration, $65. The two-month period for reply was non-statutory, and extensions of time were available under 37 CFR 1.136(a)[1].

Petitioner files the instant correspondence along with the filing fee, $370, and surcharge for late filing of the oath or declaration, $65. However, no oath or declaration has been filed. Instead, Petitioner requests a two (2) month extension of time in order to file the oath or declaration. Petitioner further avers that he is unable to obtain the signature of a deceased inventor.

Petitioner is advised that the maximum extendable period for reply has expired, and no further extensions of time are available. **This application has become abandoned by operation of law on August 11, 2002**[2]. Petitioner must revive the application.

Petitioner is further advised that, where an inventor, or the legal representative of a deceased inventor, refuses to sign the oath or declaration after having been presented with the application for review, and declaration for signing, petitioner may file a petition under 37 CFR 1.147(a)to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning legal representative of the deceased inventor.

---

[1] Because the two (2) month period for reply was non-statutory, and extensions of time were available, petitioner was given a seven (7) month period within which to reply (2 months to reply given in the notice, and 5 months of extensions of time available under 37 CFR 1.136(a).

[2] Since August 10, 2002 was a Saturday, Petitioner was given until Monday, August 12, 2002, to timely file a response to the Notice, which Petitioner complied with.

Petition under 37 CFR 1.137(b)

Applicant is strongly urged to file a petition to revive the application under 37 CFR 1.137(b), stating that the delay was unintentional. A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: **(1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof**; (**2**) the petition fee required by 37 CFR 1.17(m), which is currently $640.00 for a small entity and $1280.00 for a large entity; (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) a terminal disclaimer (for applications filed before June 8, 1995), (and fee as set forth in 37 CFR 1.20(d)).

In this instance, the required reply is either a fully executed oath or declaration, **or a grantable petition under 37 CFR 1.47** [3]. 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 this instance, Petitioner must present the application and declaration to the legal representative of the deceased inventor, of his attorney, for review of the application and signing of the declaration. Should the attorney or legal representative refuse to sign the declaration after having been presented with the application and declaration, petitioner may apply to allow the other inventor(s)to proceed with the application on behalf of himself or herself and the nonsigning legal representative of the deceased inventor.

Additional requirements include an acceptable oath or declaration under 37 CFR 1.63 and 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.

---

[3] 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, i.e. failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b)).

Regarding the oath or declaration, the Manual for Patent Examining Procedure ("MPEP"), section 409.03(a)(A) provides:

> All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.75 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors *with the signature block of the nonsigning inventor(s) left blank* may be treated as having been signed by all the available inventors on behalf of the nonsigning inventor(s) unless otherwise indicated. (Emphasis supplied).

MPEP 409.03(a).

A Declaration listing all inventors, signed by the available inventors with the signature block of the non-signing inventor(s) left blank, is required.

Finally, the filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Conclusion

Petitioner must file a petition under 37 CFR 1.137(b), and as the required reply, submit either a fully executed oath or declaration, or a grantable petition under 37 CFR 1.47(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

APR 2 8 2003

OFFICE OF PETITIONS

In re Application of Loop et al. Application No. 10/016,653 Filed: December 5, 2002 For: DESICCANT BAG WITH ENCLOSED EAS TAG AND SECURITY MARKINGS	:	DECISION ON PETITION

This is a decision on the Petition to revive the above-identified application under 37 CFR 1.137(b), filed April 5, 2003.

This Petition is hereby **granted**.

Background

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed January 10, 2002. The Notice required the filing fee, $370; the oath or declaration and surcharge for late filing of the oath or declaration, $65. The two-month period for reply was non-statutory, and extensions of time were available under 37 CFR 1.136(a).

A petition under 37 CFR 1.47(a) was filed on August 12, 2002, along with the filing fee, $370, and surcharge for late filing of the oath or declaration, $65. However, no oath or declaration was been filed, thus the petition was not grantable. Instead, Petitioner requested a two (2) month extension of time in order to file the oath or declaration. The maximum extendable period having expired on August 12, 2002, no extensions were available. This application became abandoned on August 11, 2002. A Notice of Abandonment was mailed November 19, 2002.

The Instant Petition

With the instant petition, Petitioner has submitted an acceptable oath or declaration. Accordingly, the petition is granted.

This application is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
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

CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
SUITE 500
PASADENA, CA 91105

COPY MAILED

APR 2 8 2003

OFFICE OF PETITIONS

In re Application of Loop et al. Application No. 10/016,653 Filed: December 5, 2002 For: DESICCANT BAG WITH ENCLOSED EAS TAG AND SECURITY MARKINGS	DECISION NOTING JOINDER OF LEGAL REPRESENTATIVE

This is in response to the correspondence filed August 12, 2002, and supplemented on April 9, 2003, which are being treated as a petition Under 37 CFR 1.47(a). The Letter and Petition for Extension of Time note that a Petitioner was encountering a delay in obtaining the signature of the legal representative of the deceased inventor. In response to the petition, a letter was mailed to Petitioner informing him that the application was abandoned and revival was required. In response to the Letter noting abandonment of the application, Petitioner filed a petition under 37 CFR 1.137(b) and an executed oath or declaration, noting the joinder of the legal representative of the deceased inventor and rendering the petition filed August 12, 2002 moot.

In view of the joinder of the legal representative of the deceased inventor, consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being returned to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 28 2004

DELTAGEN, INC.
1031 Bing Street
San Carlos CA 94070

In re Application of: Allen et al. Serial No.: 10/016,656 Filed: December 12, 2001 Attorney Docket No.: R-390	: : : : :	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 July 28, 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 first Office action, setting a three-month statutory time period for reply, to applicants on November 6, 2003. On July 14, 2004 the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that the Office action of November 6, 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 July 14, 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.

Marianne Seidel for

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED
DEC 11 2006
OFFICE OF PETITIONS

In re Patent No. 7,074,909	:	
Issue Date: July 11, 2006	:	
Application No. 10/016,686	:	ON PETITION
Filed: November 2, 2001	:	
Patentee(s): Susan Mary Kingsman, et. al.	:	

This is a decision on the request under 37 CFR 3.81[1], filed on October 6, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED TO THE EXTENT INDICATED ABOVE**.

The patent file is being referred to the Certificates of Correction Branch for review of the additional changes requested in the Certificate of Correction filed on October 6, 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See Official Gazette of June 22, 2004*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 8

Paul S. Hunter
FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

COPY MAILED

OCT 3 0 2003

OFFICE OF PETITIONS

In re Application of
Todd P. Lukanc, et al.
Application No. 10/016,710
Filed: December 11, 2001
Attorney Docket No. 039153-0448 (G1153)

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 22, 2003, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 9, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b)/(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the USPTO of a foreign or international

filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 5, 2004 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being returned to Technology Center Art Unit 1756 to await a reply to the non-final Office action mailed September 26, 2003. Failure to timely reply will again result in the abandonment of the application.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/016,710	12/11/2001	Todd P. Lukanc	039153-0448 (G1153)

CONFIRMATION NO. 4443

OC000000011134715

Paul S. Hunter
FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee, WI 53202-5367

Date Mailed: 10/30/2003

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/05/2004.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (703) 305-9282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

Jack J'maev
12616 Lewis Ave
Chino, CA 91710

COPY MAILED

MAY 2 8 2002

OFFICE OF PETITIONS

In re Application of
Selim S. Bencuya
Application No. 10/016,713
Filed: November 2, 2001
Attorney Docket No. CNXT-01CXT0286I

DECISION ON PETITION

This is a decision on the Petition filed March 27, 2002, which is properly considered as a petition under 37 CFR §1.53(e)(2) to accord the above-identified application a filing date of November 2, 2001, with Figures 5 through 17 as part of the original application disclosure.

Application papers in the above-identified application were filed on November 2, 2001. However, on January 30, 2002, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Items in a Nonprovisional Application," advising applicant that a filing date had been accorded; however, Figures 5-17 described in the specification appeared to have been omitted from the application.

In reply, applicant petitions the Commissioner to consider applicant's contention that all figures were submitted with the original application filed on November 2, 2001 contrary to the findings of the Office of Initial Patent Examination (OIPE) as set forth in the formalities letter dated January 30, 2002. A copy of the eight (8) sheets of drawings containing Figures 1-17 was resubmitted on petition. In support of their contention, applicant submitted a copy of their return postcard receipt. This postcard receipt identified this application by serial number, itemized "Item ... Formal Drawings - Pages ... 8" among the enclosures, bore a United States Patent and Trademark Office receipt date-stamp of November 2, 2001, and lacked any notation of non-receipt of any item listed (but did indicate a correction to the amount of a check enclosed).

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on November 2, 2001, included eight (8) sheets of formal drawings. A comparison of the drawings presently accorded a filing date of November 2, 2001 and the drawings resubmitted on petition reveals that the eight sheets of drawings identified on the postcard included Figures 1-17, as alleged. Thus, the application is entitled to a filing date of November 2, 2001, with Figures 1-17 as part of the original application disclosure.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded as requested, by Treasury Check under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 2, 2001, using the application papers received in the Office on that date and the drawing sheets containing Figures 5-17 resubmitted on petition filed March 27, 2002 and indication in the records of the USPTO that eight (8) sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

COPY MAILED

APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Bencuya	:	
Application No.: 10/016,713	:	DECISION GRANTING PETITION
Filed: November 2, 2001	:	
Attorney Docket No. 0190104	:	
FOR: METHOD AND ARTICLE OF	:	
MANUFACTURE FOR MICRO-LENS	:	
RESULTING FROM MULTI-STAGE	:	
FABRICATION TECHNIQUE	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on November 7, 2005.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed March 22, 2005, which set a period for reply of three (3) months. Having received no extensions of time under 37 CFR 1.136(a) and having received no reply, the Office considered the application abandoned on June 23, 2005. A Notice of Abandonment was mailed on October 31, 2005.

Petitioner alleges that the March 22, 2005 non-final Office action was not received at the proper correspondence address of record until a copy was mailed at petitioner's request, **after** petitioner received a Notice of Abandonment. Therefore, petitioner argues that the application is not really abandoned. The undersigned finds this assertion completely convincing because the Office action in question was mailed to an incorrect address. The record shows that a change in correspondence was filed in the above-identified application on December 9, 2004. The Office processed this request. However, the December 9, 2004 change in correspondence address was filed by an attorney not of record in the application. The Office should not have processed the

December 9, 2004 request. In short, the March 22, 2005 non-final Office action was mailed to an address other than the correspondence address of record.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center AU 2823 for consideration of the amendment filed with the instant petition on November 7, 2005.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENT LAW OFFICES OF HEATH W. HOGLUND
256 ELEANOR ROOSEVELT STREET
SAN JUAN, PR 00918

COPY MAILED

MAY 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jose Zayas-Rivera et al	:	
Application No. 10/016,726	:	DECISION ON PETITION
Filed: October 30, 2001	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ALPHA-0200	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed April 4, 2006, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is accompanied by a declaration by Jose Zayas-Rivera, applicant, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1416 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

COPY MAILED

AUG 29 2002

OFFICE OF PETITIONS

In re Application of Malik, et al. Application No. 10/016,733 Filed: October 29, 2001 Atty. Dkt. No.: 60800B For: DENDRITIC-ANTINEOPLASTIC DRUG DELIVERY SYSTEM	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(b), filed August 15, 2002.

The petition is **GRANTED**.

Petitioner has shown that inventor Ruth Duncan has refused to join in the filing of the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

RUTH DUNCAN
143B CHILTERN COURT
LONDON, NW1 1AX
UNITED KINGDOM

COPY MAILED

AUG 2 9 2002

OFFICE OF PETITIONS

In re Application of Malik, et al. Application No. 10/016,733 Filed: October 29, 2001 Atty. Dkt. No.: 60800B For: DENDRITIC-ANTINEOPLASTIC DRUG DELIVERY SYSTEM	:	LETTER

Dear Madam:

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

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

UNITED STATES 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. 080504

Robert D. Fish
Rutan & Tucker, LLP
611 Anton Blvd. 14th floor
Costa Mesa, CA 92626-1931

AUG 19 2004

In re Application of:	:	
ZHAO	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/016,734	:	
Filed: November 30, 2001	:	
Attorney Docket No.: **12569-16/NEC**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 12, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Rutan and Tucker, LLP was filed on January 26, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Bin Zhao
Cirvine Corporation
14 Figaro
Irvine, CA 92606

UNITED STATES 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. 122104

FEB - 9 2005

Robert D. Fish
Rutan & Tucker, LLP
611 Anton Blvd., 14th Floor
Costa Mesa, CA 92626-1931

In re Application of:	:	
Zhao	:	
Serial No.: 10/016,784	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: November 30, 2001	:	
Attorney Docket No.: **12569-14NEC**	:	

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 Norman E. Carte. The request is **APPROVED**.

It is noted that the application is now abandoned. There are no attorneys of record at this time. All future communications from the Office will be directed to the inventor, Bin Zhao, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mr. Bin Zhao
Cirvine Corp.
14 Figaro
Irvine, CA 92606

UNITED STATES 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. 032204

ROBERT D. FISH
RUTAN & TUCKER, LLP
P.O. BOX 1950
611 ANTON BLVD., 14TH FLOOR
COSTA MESA, CA 92628-1950

MAR 23 2004

In re Application of	)	
Bin ZHAO	)	
Application No. 10/016,801	)	DECISION ON REQUEST TO
Filed: November 30, 2001	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 101102.00007	)	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed January 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 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: Bin Zhao
Cirvine Corporation
14 Figaro
Irvine, CA 92606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

COPY MAILED
MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Naganarayana et al.	:	DECISION ON PETITION
Application No. 10/016,813	:	TO WITHDRAW
Filed: December 10, 2001	:	FROM RECORD
Attorney Docket No. 65894-0005	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2004.

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 Michael B. Stewart on behalf of all attorneys of record who are associated with Customer Number 10291.

All attorneys/agents associated with Customer Number 10291 have been withdrawn.

A Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address was received on October 21, 2005. On April 21, 2006, a Notice was mailed out accepting the revocation and new power of attorney. However, since the document submitted on October 21, 2005 was only signed by one of the three listed inventors, it was not acceptable. Accordingly, the Notice mailed on April 21, 2006, was issued in error and is hereby vacated. Applicants are 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 inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will continue to be directed to the first signing inventor at the first below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

BASAVAPATNA P. NAGANARAYANA
36501 JEFFERSON COURT, APT. 864
FARMINGTON HILLS, MI 48335

LOHITSA, INC.
26899 NORTHWESTERN HWY, SUITE 321
SOUTHFIELD, MI 48034

HONIGMAN MILLER SCHWARTZ & COHN LLP
38500 WOODWARD AVENUE
SUITE 100
BLOOMFIELD HILLS, MI 48304-5048

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

#6

JUN - 3 2003

SHAHAN ISLAM
ROSENMAN & COLIN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

In re Application of Hyun-Soo Kim et al. :
Serial No.: 10/016,821 :
Filed: December 7, 2001 : WITHDRAWAL OF ABANDONMENT
Attorney Docket No.: 3267/FLK/CIPof2687 :

This is in response to applicants' petition under 37 CFR 1.181, filed January 16, 2003, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed March 27, 2002.

A review of the file history shows that this application was filed as a continuation in part of application serial number 09/536,163, filed March 25, 2000. The examiner mailed an Office action to applicant on March 27, 2002, setting a three month shortened statutory time period for reply. On December 13, 2002, the Office mailed a Notice of Abandonment for failure to respond to the Office action.

Applicant states that a response was filed on July 17, 2002, as evidenced by the properly executed Certificate of Mailing on the reply. Applicant provides a copy of the submitted reply with the petition, and also a copy of the return postcard stamped by the USPTO. Both the response and the return postcard bear the serial number date of the parent application, not this application. The application filing date is indicated as July 18, 1999 on the response and as July 18, 2001 on the return postcard. However, both the response and the return postcard list the attorney docket number of this application and the substance of the response is clearly directed to the Office action of March 27, 2002. In view of this evidence, applicant is considered to have submitted a timely (though misdirected) reply.

Applicant's petition is **GRANTED.** The application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the response.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

John Doll

John Doll
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

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

BELL, BOYD & LLOYD LLP
P.O. BOX 1135
CHICAGO IL 60690

In re Application of :
David Kloper :
Application No. 10/016,845 : ON PETITION
Filed: December 14, 2001 :
Attorney Docket No. 115426-0949 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 2006[1], to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 20, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed. Accordingly, the above-identified application became abandoned.

[1] Evidence has been provided to show that the original petition under 37 CFR 1.137(b) was submitted on June5, 2006.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/016,845	Applicant(s) KLOPER, DAVID	
	Examiner Shick C. Hom	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 4 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: *1-5,7-12,14-19,21-26,28-33,35-40 and 42*.
   Claim(s) rejected: *6, 13, 20, 27, 34, 41*.
   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: Claims contain 112 second para. problems. Clarity of the language in claims 1, 8, and 15 is needed because "ranging message" and "modifying the channel class based upon characteristics of the channel" is not clear.

Seema S. Rao
SEEMA S. RAO 1/10/07
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BELL, BOYD & LLOYD LLP
P.O. BOX 1135
CHICAGO IL 60690

COPY MAILED

JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
David Kloper	:	
Application No. 10/016,845	:	DECISION GRANTING PETITION
Filed: December 14, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 115426-0949	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 Rejection of November 29, 2005, 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 2616.

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

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of
John J. Giobbi
Application No. 10/016,857
Filed: December 14, 2001
Attorney Docket No. 25000-11106

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 14, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Janal M. Kalis, along with all of the other attorneys associated with Customer No. **21186** has been revoked by the assignee of the patent application on March 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GERALD B ROSENBERG
NEW TECH LAW
260 SHERIDAN AVENUE
SUITE 208
PALO ALTO CA 94306-2009

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of :
Pham, et al. :
Application No. 10/016,897 : ON PETITION
Filed: December 3, 2001 :
Attorney Docket No. AESN3005 :
For: NETWORK MEDIA ENCRYPTION ARCHITECTURE, AND METHODS FOR SECURE STORAGE

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2006 (certificate of mailing January 25, 2006), to revive the above-identified application.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed May 16, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 17, 2005. A Notice of Abandonment was mailed on December 1, 2005.

Petitioners have submitted an amendment in reply to the May 16, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the May 16, 2005 non-final Office action, and the required petition fee.

The petition is **GRANTED**.

An extension of time cannot be purchased beyond the maximum extendable period for reply, in this case after November 16, 2005 (6 months after the May 16, 2005 Office action was mailed). The $510.00 three month extension of time submitted with the instant petition will be refunded to deposit account no. 50-0890.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being forwarded to Technology Center AU 2137 for consideration of the amendment filed on January 30, 2006 (certificate of mailing date January 25, 2006).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: GERALD B. ROSENBERG, ESQ.
285 HAMILTON AVE., SUITE 520
PALO ALTO, CA 94301

UNITED STATES 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. ____

FISH & RICHARDSON PC
1425 K STREET NW
11TH FLOOR
WASHINGTON, DC 20005-3500

COPY MAILED

MAY 03 2004

OFFICE OF PETITIONS

In re Application of
Shunpei Yamazaki et al
Application No. 10/016,923
Filed: December 13, 2001
Attorney Docket No. 07977-252002

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed April 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 20, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Preliminary Amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/23/2010

Applicant	: Eric Rosen	: DECISION ON REQUEST FOR
Patent Number	: 7603126	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/016,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/12/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

MAIL

MAY 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

In re application of:
Paul A. Kline, et al.
Application No. 10/016,998
Filed: December 14, 2001
For: INTERFACING FIBER OPTIC DATA WITH ELECTRICAL POWER SYSTEMS

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 April 8, 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 of the attorneys/agents associated with Customer Number 23377 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: Manelli Denison & Selter
2000 M Street, N.W., Suite 700
Washington, DC 20036-3307

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CAPITAL LEGAL GROUP, LLC
5323 POOKS HILL ROAD
BETHESDA, MD 20814

COPY MAILED

SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Paul A. Kline
Application No. 10/016,998
Filed: December 14, 2001
Attorney Docket No. CRNT-0034

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181 (no fee), filed on October 31, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

The above application was held abandoned for failure to timely respond to the non-final Office action mailed April 5, 2006, which set a three (3) month shortened statutory period for reply.

The petition is **DISMISSED**.

A review of the record shows that petitioner failed to submit a proper response to the non-final Office action mailed on April 5, 2006.

Petitioner argues that the Office action mailed April 5, 2006 incorrectly declared that the reply filed on January 18, 2006 was non-responsive. Petitioner further states that after speaking with the Examiner's supervisor and conducting a subsequent interview with the examiner, it was determined that the response filed on January 18, 2006 was responsive and that the examiner would issue a new Office action and that the applicant should await the new Office action.

Petitioner's argument is not persuasive. Petitioner's Interview Summary of May 2, 2006, did not operate to avoid the above application from becoming abandoned. Regardless, of what the supervisor or examiner stated, it was petitioner's responsibility to file a proper response to the non-final Office action mailed on October 18, 2006, within the three months shortened statutory period or before the maximum extendable period for reply expired. An applicant may delay action until the end of the time period for reply. In doing so, however, the applicant must assume the risk attendant to such delay. *See* Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

In view of the above, the application was properly held abandoned.

It is strongly recommended that petitioner file a petition to revive under 37 CFR 1.137(b) and pay the petition fee of $750. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CAPITAL LEGAL GROUP, LLC
5323 POOKS HILL ROAD
BETHESDA, MD 20814

COPY MAILED
JUN 17 2008
OFFICE OF PETITIONS

In re Application of	:	
Paul A. Kline	:	
Application No. 10/016,998	:	DECISION ON PETITION
Filed: December 14, 2001	:	
Attorney Docket No. CRNT-0034	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2007, to revive the above-identified application.

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 $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2613 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 13

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY CA 94704-0778

COPY MAILED
NOV 26 2003
OFFICE OF PETITIONS

In re Application of Gonzalez, et al. Application No. 10/017,035 Filed: December 14, 2001 Attorney Docket No. SDK1P003/246	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed September 25, 2003 (Certificate of Mailing dated September 22, 2003).

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on November 26, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the international application.

In view of the above, the application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2824, for consideration of the Response to Restriction Requirement, filed June 11, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

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
www.uspto.gov

Paper No. 12

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY CA 94704-0778

COPY MAILED

NOV 2 6 2003

OFFICE OF PETITIONS

In re Application of
Gonzalez, et al.
Application No. 10/017,035
Filed: December 14, 2001
Attorney Docket No. SDK1P003/246

ON PETITION

This is a decision on the paper titled "Request for Reinstatement of Patent Application", filed October 27, 2003, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the Restriction Requirement mailed May 3, 2002. This Office action set a shortened statutory period for reply of one month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 4, 2002. A Notice of Abandonment was mailed on September 23, 2003.

Petitioner contends that he did timely file a reply to the Restriction Requirement before the application was held abandoned on June 4, 2002. In support, petitioner has included a copy of a "Response to Restriction Requirement", bearing a Certificate of Mailing dated June 3, 2002. In addition, petitioner has included a copy of a properly itemized postcard receipt, showing that the Response to Restriction Requirement was received in the Office on June 11, 2002.[1]

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

---

[1] A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

The application file is being forwarded to Technology Center 2800, Group Art Unit 2824, for consideration of the Response to Restriction Requirement, filed June 11, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

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
www.uspto.gov

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED
MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Matthew A. Hayduk
Application No.10/017,047
Filed: December 13, 2001
Attorney Docket Number: 42390P12401
Title of Invention: Computing System Capable of Reducing Power Consumption by Distributing Execution of Instruction Across Multiple Processors and Method Therefore

ON PETITION

This is a decision on the petition filed May 1, 2006, under 37 CFR 1.137(a) to revive the above-identified application.

The petition to revive under 37 CFR § 1.137(a) is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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.

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on August 1, 2005 and set a three (3) month shortened statutory period for reply. An amendment was submitted on November 1, 2005. In response to the amendment an Advisory Action was mailed on February 14, 2006 indicating the amendment submitted on November 1, 2005 did not place the application in condition for allowance. Accordingly, this application became abandoned on November 2, 2005. A Notice of Abandonment was mailed on March 28, 2006.

PETITION TO REVIVE UNDER 37 CFR § 1.137(a)
A grantable petition under 37 CFR § 1.137(a) must be accompanied by:

(1) the required reply,[1]
(2) the petition fee,
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks items (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable." See, 37 CFR § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[2] 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, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[3]

Petitioner argues the application was unavoidably delayed because the 1) USPTO incurred a three month delay in forwarding applicant's after final amendment to the

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711(c)(III)(c)(2) for a discussion of the requirements for a showing of unavoidable delay.

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

examiner, 2) applicant was never made aware of the status of application until after the six month statutory reply period, and 3) applicant was mislead by the examiner. Petitioner insist that he contacted the examiner on January 24, 2006, and was informed that the reply period would be reset or extended to allow petitioner to respond to the next Office communication. Petitioner contends but for his good faith reliance on the examiner's recommendations and verbal commitment to reset the reply period, a response would have been filed prior to February 1, 2006.

Petitioner's arguments have been considered but they are not persuasive. Petitioner was informed in the Final Office Action and the Advisory Action that the statutory time period for reply could not be extended beyond the six months from the mailing of the Final Office Action. Pursuant to 37 CFR 1.116 (b), the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. Further MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Petitioner's contention that the purported verbal commitment made by the examiner made the delay unavoidable is not convincing. A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Accordingly, petitioner has failed to provide sufficient arguments that warrant the finding of unavoidable delay within the meaning of 37 CFR 1.137(a).

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent and change of correspondence address must be submitted. 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.

Alternative Venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply, the required petition fee ($750.00 for small entity, $1500 for other than 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 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. § 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Stuart A. Whittington
OC2-157
4500 S. Dobson Road
Chandler, AZ 85248

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

Friedrich Kueffner
Suite 1921
342 Madison Avenue
New York, NY 10173

COPY MAILED

MAY 2 8 2002

OFFICE OF PETITIONS

In re Application of
Udo Schutz
Application No. 10/017,057
Filed: February 12, 2002
Attorney Docket No. PR-37

DECISION ON PETITION

This is a decision on the Petition filed February 12, 2002, which is properly considered as a petition under 37 CFR §1.53(e)(2) to accord the above-identified application a filing date of December 14, 2001, with 8 figures of drawings as part of the original application disclosure.

Application papers in the above-identified application were filed on December 14, 2001. However, on January 14, 2002, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Items in a Nonprovisional Application," advising applicant that a filing date had been accorded; however, Figures 2-8 described in the specification appeared to have been omitted from the application.

In response, applicant filed the instant petition respectfully pointing out that all 8 figures of the above-identified application were submitted with the original application. A copy of the eight (8) sheets of drawings containing Figures 1-8 was resubmitted on petition. In support of the petition, applicant submitted a copy of their return postcard receipt. This postcard receipt identified this application by serial number, itemized "Drawing ☒(8 sheets)[1]" among the enclosures, bore a United States Patent and Trademark Office receipt date-stamp of December 14, 2001, and lacked any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on December 14, 2001, included eight sheets of drawings. A comparison of the drawings presently accorded a filing date of December 14, 2001 and the drawings resubmitted on petition reveals that the Figure 1 present in the application is the wrong drawing. The eight sheets of drawings resubmitted on petition are those identified on the postcard and include Figures 1-8, as alleged and will be used in processing of this application. Thus, the application is entitled to a filing date of December 14, 2001, with Figures 1-8 as part of the original application disclosure.

In view thereof, the petition is **GRANTED**.

---

[1] The notation "☒(8 sheets)" is handwritten on the postcard. The Office is relying on petitioner's duty of good faith and candor in accepting that this is a true copy of the postcard as filed.

Given the basis for granting the petition, the petition fee is being refunded by Treasury Check under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of December 14, 2001, using the application papers received in the Office on that date and the drawing sheets containing Figures 1-8 resubmitted on petition filed February 12, 2002 and indication in the records of the USPTO that eight (8) sheets of drawings were present on filing;
- rescanning of the correct Figure 1 in this application. The Figure 1 originally made of record in this application is incorrect. The Figure 1 resubmitted on petition filed February 12, 2002 is the Figure 1 in this application.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Klaus P. Stoffel, Esq.
Wolff & Samson PC
One Boland Drive
West Orange NJ 07052

COPY MAILED

FEB 04 2008

OFFICE OF PETITIONS

In re Patent No. 7,098,956	:	
Issue Date: August 29, 2006	:	
Application No. 10/017,164	:	ON PETITION
Filed: December 14, 2001	:	
Attorney Docket No. 5085-18	:	

This is a decision on the petition filed June 14, 2007, 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**.

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.

David Bucci
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
DIW Oct-06

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Wei et al.	:	
Application No. 10/017,183	:	DECISION ON PETITION
Filed: 7 December, 2001	:	
Atty Docket No. NW-102	:	

This is a decision on the petition filed on 24 July, 2006, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application be accorded a filing date of 7 December, 2001.

The petition is **granted**.

The instant nonprovisional application papers as filed consisted of 55 pages containing text and drawings on the same pages. On 5 April, 2002, however, the Office of Initial Patent Examination sent a Notice stating that, *inter alia*, the specification contains drawings or flow diagrams (37 CFR 1.58(a)), and that formal drawings in accordance with 37 CFR 1.81 should be submitted.

In response, on 19 February, 2003, 20 sheets of drawings were filed.

In response, the present petition was filed on 24 July, 2006. Petitioners assert that the correct filing date is 7 December, 2001, and request that the filing date be corrected.

Pursuant to 35 USC 111(a)(2)(B), in order to obtain a filing date, a nonprovisional application must provide the specification required by 35 USC 112, and a drawing as prescribed by 35 USC 113, conditions clearly met herein on 7 December, 2001. All

conditions for obtaining a filing date in this application were clearly met on 7 December, 2001.[1]

Under the facts of this case, this nonprovisional application is entitled, for a filing date, to the date of receipt of the 55 pages of specification that also contained drawing figures. There is no explicit requirement that precludes the obtaining of a filing date for an application when the specification and drawings are, as here, not separated.

No petition fee is due. The petition fee will be credited to counsel's deposit account.

The filing date will be corrected to 7 December, 2001.

This nonprovisional application is being forwarded to the Office of Initial Patent Examination (OIPE), Customer Corrections, for further processing with a filing date of 7 December, 2001.

Telephone inquiries should be directed to the undersigned at 571-272-3231. Inquiries related to OIPE processing should be directed to OIPE at 571-272-4000.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] It is additionally noted that Claims 1-18, 20, and 21 as originally filed are method claims. It has been the practice of the USPTO 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) MPEP 601.01(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Nfocus Neuromedical Inc
c/o Levine Bagade Han, LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Mai Huong Dang et al.	:	
Application No. 10/017,193	:	DECISION ON PETITION
Filed: December 12, 2001	:	TO WITHDRAW
Attorney Docket No. NFCSNZ01200	:	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 3, 2009.

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 Sanjay S. Bagade on behalf of all attorneys/agents associated with customer number 71536. All attorneys/agents associated with customer number 71536 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Nfocus Neuromedical, Inc.
2191 E. Bayshore Road, Suite 100
Palo Alto, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/017,193	12/12/2001	Mai Huong Dang	NFCSNZ01200

CONFIRMATION NO. 5901

POWER OF ATTORNEY NOTICE

71536
Nfocus Neuromedical Inc.,c/o Levine Bagade Han LLP
2483 East Bayshore Road
Suite 100
Palo Alto, CA 94303

OC000000035228643

Date Mailed: 03/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/03/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose CA 95164-0640

COPY MAILED

JUL 1 8 2002

OFFICE OF PETITIONS

In re Application of
Wodzianek, et al.
Application No. 10/017,212
Filed: December 13, 2001
Attorney Docket No. 034300-168

DECISION GRANTING
PETITION

This is a decision on (1) the petition, filed February 6, 2002, requesting, in effect, withdrawal of the January 23, 2002 Notice to File Omitted Item(s) in a Nonprovisional Application (Notice) insofar as it pertains to allegedly omitted drawing figure 8 and (2) the petition, filed April 22, 2002 , requesting, in effect, withdrawal of the March 7, 2002 Notice to File Corrected Application Papers insofar as it pertains to allegedly omitted drawing figure 5. The petitions will be treated under 37 CFR 1.53(e).

The application was deposited on December 13, 2001. On January 23, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that drawing figure 8 described in the specification appeared to have been omitted.

Petitioners filed the February 6, 2002 petition to contest the allegation that drawing figure 8 was omitted.

On March 7, 2002, the Office of Initial Patent Examination withdrew the January 23, 2002 Notice because drawing figure 8 was present in the application file and issued a Notice to File Corrected Application Papers informing petitioners that drawing figure 5 appeared to have been omitted and requiring petitioners to file substitute drawings in compliance with 37 CFR 1.84.

Accordingly, the petition under 37 CFR 1.53(e), filed February 6, 2002, is dismissed as moot.

In response to the March 7, 2002 Notice to File Corrected Application Papers, petitioners filed the April 22, 2002 petition and submitted 9 sheets of substitute drawings. Petitioners request that drawing figure 5 be accorded a filing date of December 13, 2001 on the basis that 9 sheets of drawing figures, including drawing figure 5, were received in the Patent and Trademark Office (PTO) on December 13, 2001. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing December 13, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 9 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 9 sheets of drawing figures, including drawing figure 5, were filed on December 13, 2001. MPEP 503. **The April 22, 2002 petition under 37 CFR 1.53(e) is granted.**

The $130.00 petition fee charged in connection with the February 6, 2002 petition will be refunded to deposit account no. 02-4800.

The Revocation and Power of Attorney, filed June 7, 2002, has been entered and made of record. A courtesy copy of this decision will be mailed to the attorney who filed both petitions, Mr. Joseph P. O'Malley. All future correspondence concerning the above-identified application will be mailed to the above listed correspondence address of record.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of December 13, 2001, using the substitute drawing figures submitted with the April 22, 2002 petition. Office records will be corrected to show that 9 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Joseph P. O'Malley
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7/12/02

2 Serial/Patent # 10/617,212

	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	7	2/6/02	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 02--4800

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Drawing figure present on filing. Office mistake

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Shirene Willis TITLE: Petitions Atty

SIGNATURE: E. Shirene Willis PHONE: 308-6712

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 7/18/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-05

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Scott R. Smith	:	
Application No. 10/017,213	:	DECISION ON PETITION
Filed: 14 December, 2001	:	
Atty Docket No. S13.12-0111	:	

This is a decision on the petition filed on 27 May, 2005, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 16 September, 2004, for failure to file a proper reply to the final Office action mailed on 15 June, 2004, which set a three (3) month shortened statutory period for reply. On 7 December, 2004 (certificate of mailing date 17 August, 2004), petitioners filed an amendment after final rejection. The amendment did not place the case in *prima facie* condition for allowance, however, and petitioners were so notified in the Advisory Action mailed on 13 January, 2005.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The address listed on the petition filed on 27 May, 2005, is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 3737 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

cc: Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

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)
6749240	2004-06-15	10017220	2001-12-14	

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

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.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
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	/Carl Wesley Truly/	Date (YYYY-MM-DD)	2009-02-07
Name	Carl Wesley Truly		

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. 6749240
Issue Date: June 15,2004
Application No. 10017220
Filed: December 14,2001
Attorney Docket No. 39615/264999

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 7,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 7,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SIMA SINGADIA KULKARNI
KILPATRICK STOCKTON LLP
SUITE 2800
1100 PEACHTREE STREET
ATLANTA, GA 30309-4530

COPY MAILED

MAY 28 2004

OFFICE OF PETITIONS

In re Application of :
R. Martin Emanuele et al :
Application No. 10/017,223 :
Filed: December 14, 2001 :
Attorney Docket No. 19720-0229 (42896-263913)

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 the Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 10

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

COPY MAILED

FEB 2 8 2007

OFFICE OF PETITIONS

In re Application of
Jean Grandais
Application No. 10/017,227
Filed: December 7, 2001
Attorney Docket No. FR9-2000-0075

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit substitute drawings in respond to a Notice to File Missing Parts mailed January 17, 2002. A Notice of Abandonment was mailed on December 17, 2003. On April 21, 2006, the present petition was filed.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying of 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). 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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of substitute drawings; (2) the petition fee of $1,500.00; and (3) an adequate statement of unintentional delay.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further review of the drawings provided on April 21, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/07

TO SPE OF : ART UNIT 2132

SUBJECT : Request for Certificate of Correction on Patent No.: 7170997

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

GILBERTO BARRON JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2132
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. 080404

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, NW
WASHINGTON, DC 20005-3502

AUG 16 2004

In re Application of:	:	
MICHAEL C. LACROIX	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/017,232	:	
Filed: December 13, 2001	:	
Attorney Docket No.: **104427-100**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed February 20, 2004.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Sand & Sebolt was filed on May 19, 2004. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON ST., NW
CANTON, OH 44718-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WINSTON & STRAWN
1700 K STREET, N.W.
WASHINGTON, DC 20006

COPY MAILED

APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael Charles LaCroix	:	DECISION ON PETITION
Application No. 10/017,232	:	TO WITHDRAW
Filed: December 13, 2001	:	FROM RECORD
Attorney Docket No. 104427-100	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2005 and September 16, 2005.

The request is **NOT APPROVED** as moot.

A review of the file history reveals that:

- The original papers include an appointment of Winston & Strawn, associated with Customer No. 28765.
- On February 20, 2004, Jeffrey A. Wolfson, associated with Customer No. 28765 submitted a Request for Withdrawal as Attorney.
- On May 19, 2004, Butch Carter, on behalf of the assignee, filed a Revocation of Power of Attorney and Change of Correspondence Address.
- On June 1, 2004, the Office acknowledged this paper indicating that the power of attorney to Customer No. 28765 has been revoked by the assignee.
- On August 16 ,2004, the Office dismissed the request for withdrawal since the power of attorney to Customer No. 28765 has been revoked by assignee.
- On November 18, 2004, Change of Correspondence Address submitted by Customer No. 28765.

The paper entitled Revocation of Power of Attorney filed by the assignee was incomplete since the power of attorney is from an assignee and the Certificate required by 37 CFR 3.73(b), that must accompany any and all such filings, has not been received. Therefore, the Notice of Acceptance of

Power of Attorney and Notice Regarding Change of Power of Attorney mailed June 1, 2004 is hereby vacated and Joseph A. Sebolt and those practitioners associated with Customer No. 36183 were not giving power of attorney. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

This matter is being referred to Technology Center AU 2837.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

CHARMASSON, BUCHACA & LEACH, LLP
2635 CAMINO DEL RIO SOUTH
SUITE 102
SAN DIEGO CA 92108

MAILED

JAN 26 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
MURPHY ET AL. :
Application No. 10/017,235 :
Filed: December 18, 2001 :
Attorney Docket No. 1865.1-4 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-referenced patent application became abandoned for Applicant's failure to reply to a Final Office Action mailed March 17, 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 18, 2009.

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) with small entity RCE fee of $405.00 and a submission therefor in the form of an "Amendment" in response to the Final Office Action mailed March 17, 2009, (2) the small entity petition fee of $810.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Final Office Action is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571)-272-3687.

This application is being referred to Technology Center AU 1624 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight
Supervisor
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

ROGER PITT
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK NY 10022-6030

COPY MAILED

AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Delrieu, et al.	:	
Application No. 10/017,259	:	DECISION ON PETITION
Filed: November 12, 2001	:	TO WITHDRAW
Attorney Docket No. PD111	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, this request is the attached copy of written instruction fro an officer of the assignee, does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the

assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANTHONY H. HANDAL, ESQ
BROWN RUDNICK BERLACK ISRAELS L.L.P.
SEVEN TIMES SQUARE
NEW YORK, NY 10036

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. 6

GREGG C. BENSON
PFIZER INC.
PATENT DEPARTMENT, MS4159
EASTERN POINT ROAD
GROTON CT 06340

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Naylor et al.	:	
Application No. 10/017,273	:	ON PETITION
Filed: 12 December, 2001	:	
Attorney Docket No. PC22013AADO	:	

This is a decision on the petition filed on 29 May, 2002, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 12 December, 2001, with Pages 123 and 124 of the specification as a part of the original disclosure.

The petition is **dismissed**.

On 12 December, 2001, the application was filed.

On 26 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date of 12 December, 2001, but that Pages 123 and 124 of the specification (description and claims) appeared to have been omitted from the application. A two (2) month period for reply was set.

In response, on 29 May, 2002 (certificate of mailing date 24 May, 2002), the present petition was filed. Petitioners argue that Pages 123 and 124 were present among the application papers filed on 12 December, 2001. In support, petitioners have submitted a declaration by counsel's employee, Sherry L. Jenkins, stating that she "personally verified" that "each and every page was present" before the application was filed in the USPTO on 12 December, 2001. Petitioners request that the application be accorded a filing date of 12 December, 2001, with Pages 123 and 124 as a part of the original disclosure.

The arguments have been considered, but are not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that Pages 1-122 and 125-140 of specification, including claims, and abstract were received on 12 December, 2001. No Pages 123 and 124 were filed on 12 December, 2001, since no such pages are present among the application papers received on that date. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes the page was among the papers he included in the application is not more persuasive than the actual papers shown to have been received by the official file. In this regard, Ms. Jenkins' declaration that she verified that each and every page was present prior to the filing of the application on 12 December, 2001, is not more persuasive than the contents of the official USPTO file.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of section 503 of the Manual of Patent Examining Procedure (MPEP).[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application

---

[1]The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[2]

Since Pages 123 and 124 were not a part of the papers filed on 12 December, 2001, the application cannot be accorded the 12 December, 2001, filing date with these pages as a part of the original disclosure of this application.

As this petition was not due to an error on the part of the USPTO, the petition fee will not be refunded.

The application will be processed and examined using only the application papers present on filing on 12 December, 2001. The copy of Pages 123 and 124 and the other application papers supplied on 29 May, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 12 December, 2001, using only the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] MPEP 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 09-02

Paper No. 8

GREGG C. BENSON
PFIZER INC.
PATENT DEPARTMENT, MS4159
EASTERN POINT ROAD
GROTON CT 06340

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Naylor et al.	:	
Application No. 10/017,273	:	ON PETITION
Filed: 12 December, 2001	:	
Attorney Docket No. PC22013AADO	:	

This is a decision on the renewed petition filed on 17 September, and supplemented by facsimile on 26 September, 2002, under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 12 December, 2001, with Pages 123 and 124 of the specification as a part of the original disclosure.

The petition is **granted**.

On 12 December, 2001, the application was filed.

On 26 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice" stating, *inter alia*, that the application had been accorded a filing date of 12 December, 2001, but that Pages 123 and 124 of the specification (description and claims) appeared to have been omitted from the application. A two (2) month period for reply was set. The petition filed on 29 May, 2002, was dismissed on 26 August, 2002.

In response, on 17 September, 2002, the present petition was filed by facsimile . Petitioners again argue that Pages 123 and 124 were present among the application papers filed on 12 December, 2001. In support, a copy of petitioners' postcard receipt was supplied with the present renewed petition. The postcard receipt bears a USPTO Office stamp dated 12 December, 2001, and showing the above-identified application number, and identifies the application by first named inventor's name, invention title, and docket number, and itemizes the filing of,

inter alia, Specification 131 pages. Petitioners request that the application, including Pages 123 and 124 of the specification, be accorded a filing date of 12 December, 2001.

A review of the record reveals that Pages 123 and 124 of the specification are not located among the application papers deposited on 12 December, 2001. However, the evidence is convincing that the application papers deposited on 12 December, 2001, included Pages 123 and 124 of the specification and that those pages were subsequently misplaced in the Office. Therefore, the application, including Pages 123 and 124 of the specification, is entitled to a filing date of 12 December, 2001. The "Notice" mailed on 26 March, 2002, is vacated to the extent that it stated that Pages 123 and 124 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The petition fee of $130.00 will be refunded to counsel's deposit account, No. 16-1445.

The application will be processed using the application papers filed on 8 October, 2001, and the copy of Pages 123 and 124 of the specification supplied by facsimile on 26 September, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 12 December, 2001, using the application papers filed on 12 December, 2001, and the copy of Pages 123 and 124 of the specification (description and claims) supplied on 26 September, 2002.

Telephone inquires 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