UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

HUGH R. KRESS, ESQ.
WINSTEAD SECHREST & MINICK P.C.
2400 BANK ONE CENTER
910 TRAVIS STREET
HOUSTON, TX 77002

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AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of
Zura et al.
Application No. 10/036,656
Filed: December 21, 2001
Attorney Docket No. 23555-P011US

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed on July 23, 2002, requesting that 2 inventors be allowed to file the application on behalf of themselves and of the remaining joint-inventors who apparently refuse to join in this application.

The petition is **GRANTED.**

There are 4 joint-inventors named for the invention claimed in this application: Christopher P. Zura ("Zura"), Robert Bennet Stout ("Stout"), Jonathan Robert Guthrie ("Guthrie"), and Chris David Duhon ("Duhon"). The application was filed on December 21, 2001 without an oath or declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. A Notice to File Missing Parts of Nonprovisional Application was mailed on February 5, 2002 ("2/5/02 Notice"), giving Applicants an extendable, 2-month non-statutory period within which to submit a proper oath or declaration.

A petition under 47 CFR 1.47(a) was filed on April 2, 2002, stating that Stout had expressly refused to join in the application and Duhon had not responded to the letter sent by counsel for the assignee-of-record for the application, and requesting that Zura and Guthrie be allowed to file the application on behalf of themselves as well as Stout and Duhon. That petition was dismissed on July 2, 2002 because the declaration enclosed therein, though signed by Zura and Guthrie, did not contain any information identifying Stout and Duhon as required by 37 CFR 1.63.

The instant renewed petition encloses a "Declaration for Utility or Design Patent Application (37 CFR 1.63)" that contains information identifying all 4 inventors in accordance with 37 CFR 1.63(a)(2), (3) ("7/23/02 Declaration"), and is signed by Zura and Guthrie. In addition, in a "Supplemental Response to February 5, 2002 Notice to File Missing Parts of Nonprovisional Application" submitted by facsimile on June 5, 2002 ("6/5/02 Supplemental Response"), counsel clarified that a copy of the entire application, including the specification, claims and drawings, had been sent to Stout on March 13, 2002,[1] and that Stout advised counsel by telephone on March 19, 2002 of his refusal to sign the application papers.[2]

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[1] See 6/5/02 Supplemental Response, page 2, 1st full paragraph; 4/2/02 Petition, page 2, lines 16-17.

[2] 4/2/02 Petition, page 2, lines 20-26.

A copy of the entire application, including the specification, claims and drawings, had also been sent to Duhon on March 13, 2002 at his last known address,[3] but apparently no response has been received from him as of July 23, 2002 when the instant renewed petition was filed.[4]

In view of the above, the Office concludes that a *bona fide* attempt has been made to present to Stout and Duhon, for signature, a copy of the entire application including the specification, claims and drawings; and that Stout expressly refused to join in the application, and Duhon refuses to join in by not responding.[5] The petition is thus granted and the 7/23/02 Declaration is hereby accepted. The application is now complete.[6]

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Stout and Duhon at their respective last known addresses provided in the petition:

Robert Stout
11910 Wildspruce Drive
Houston, TX 77072

Christopher Duhon
1555 W. Sam Houston Parkway North
Houston, TX 77043

Notice of the filing of this application will also be published in the *Official Gazette*.

The application file is being returned to the Office of Initial Patent Examination for further processing. Thereafter, it will be forwarded to the appropriate Technology Center for examination in due course.

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[3] 6/5/02 Supplemental Response, page 2, 1st full paragraph; 4/2/02 Petition, page 2, last 2 lines; page 3, 1st 3 lines.

[4] See 4/2/02 Petition, page 3, lines 9-11. A copy of the 4/2/02 Petition, including the statements of facts contained therein, is enclosed with the instant renewed petition, thereby representing that the statements of facts remain current as of 7/23/02 when the renewed petition was filed.

[5] The 4/2/02 Petition, in the last 3 lines of page 3, attributes Duhon's non-response to the 3/13/02 mailing to his being "unlocatable." However, the 2nd full paragraph in page 3 of the Petition also states that someone other than Duhon signed for the 3/13/02 package containing the application papers mailed by counsel. If Duhon permanently relocated elsewhere and cannot be traced, that package would have been returned to the sender. Its signing and acceptance by a 3rd party on behalf of Duhon indicates that either Duhon is still affiliated with that address, or that the person signing for Duhon knew his whereabouts. Therefore, it may be more accurate to characterize Duhon's non-response as his refusal to sign the application papers.

[6] The petition encloses 2 checks: $130 as petition fee, and $720 for a 4-month extension of time for filing the 7/23/02 Declaration as response to the 2/5/02 Notice. **The payments have been credited** to Deposit Account No. 23-2426, as authorized in the instant petition, for the following reasons: (1) No fee is required for a renewed petition under 37 CFR 1.47(a); (2) Although the Office requested submission of appropriate extension-of-time fees in the 7/2/02 Decision to dismiss the 4/2/02 petition, upon reconsideration, the Office has determined that the 4/2/02 Declaration constitutes a *bona fide* reply to the 2/5/02 Notice, in that, omission of the easily includable identifying information for Stout and Duhon could only be inadvertent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Robert Stout
11910 Wildspruce drive
Houston, TX 77072

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AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Zura et al. :
Application No. 10/036,656 : LETTER
Filed: December 21, 2001 :
Attorney Docket No. 23555-P011US :

Dear Mr. Stout,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter 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

cc: Hugh R. Kress, Esq.
Winstead Sechrest & Minick P.C.
2400 bank One Center
910 Travis Street
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Christopher Duhon
1555 W. Sam Houston Parkway North
Houston, TX 77043

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AUG 1 9 2002

OFFICE OF PETITIONS

In re Application of
Zura et al.
Application No. 10/036,656
Filed: December 21, 2001
Attorney Docket No. 23555-P011US

LETTER

Dear Mr. Duhon,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter 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

cc: Hugh R. Kress, Esq.
Winstead Sechrest & Minick P.C.
2400 bank One Center
910 Travis Street
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUGH R. KRESS, ESQ.
WINSTEAD SECHREST & MINICK P.C.
2400 BANK ONE CENTER
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HOUSTON, TX 77002

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JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of
Zura et al.
Application No. 10/036,656
Filed: December 21, 2001
Attorney Docket No. 23555-P011US

: DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed on April 2, 2002,[1] requesting that 2 inventors be allowed to file the application on behalf of themselves and of the joint-inventor who allegedly refuses to join in this application, as well as the remaining joint-inventor who allegedly cannot be located.

The petition is **DISMISSED.**

Background

There are 4 joint-inventors for the claimed invention in this application: Christopher P. Zura ("Zura"), Robert Bennet Stout ("Stout"), Jonathan Robert Guthrie ("Guthrie"), and Chris David Duhon ("Duhon"). As pointed out in the February 5, 2002 Notice to File Missing Parts of Nonprovisional Application ("2/5/02 Notice"), the application as filed on December 21, 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. In response, the instant petition was filed.[2] The Office of Initial Patent Examination (OIPE) processed the petition and the accompanying declaration ("4/2/02 Declaration") and, as explained below, issued a Notice of Incomplete Reply (Nonprovisional) on April 10, 2002 ("4/10/02 Notice").

The 4/2/02 Declaration

The petition requests that the 4/2/02 Declaration, signed only by Zura and Guthrie, be accepted, alleging that Stout refuses to join in this application and that Duhon cannot be located. Although the 4/2/02 Declaration is signed by Zura and Guthrie,[3] and identifies each of them by the full

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[1] The 4/2/02 petition was supplemented on 6/5/02 with additional statements submitted by facsimile.

[2] The 2-month period for responding to a Notice to File Missing Parts is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions under 37 CFR 1.136(a) of up to 5 months, i.e., through 9/5/02 at the maximum, are permitted. See MPEP 710.02(d) (Aug. 2001).

[3] 37 CFR 1.63(a)(1).

name,[4] the country of citizenship,[5] and the residence,[6] it does not contain any information on Stout and Duhon, rendering it incomplete within the meaning of 37 CFR 1.63. Therefore, the 4/10/02 Notice was not mailed in error and will not be vacated.

Consequently, the Office is not able to reach the merits of the instant petition under 37 CFR 1.47(a), in that, it fails to meet the threshold requirement for a petition under 37 CFR 1.47(a), i.e., it does not include a complete oath/declaration **identifying each inventor** in accordance with 37 CFR 1.63.[7] The petition is thus dismissed.

A renewed petition under 37 CFR 1.47(a) must:

-include a proper oath/declaration **identifying each of** Zura, Stout, Guthrie, and Duhon in accordance with 37 CFR 1.63, even though Zura and Guthrie may be the only signing inventors;[8]
-be filed before abandonment of this application,[9] along with the appropriate extension-of-time fee;[10]

and should be addressed as follows:

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[4] 37 CFR 1.63(a)(2).

[5] 37 CFR 1.63(a)(3).

[6] 37 CFR 1.63(c).

[7] Regardless of whether the named inventor signs the oath/declaration.

[8] **A blank declaration is attached for counsel's use** (The 4/2/02 Declaration is unacceptable also because each page signed by the inventor contains only of information on that inventor. To each signing inventor, there is no indication of other joint-inventors named in the application.).

The statement of facts does **not** need to be re-submitted, unless counsel wishes to provide supplemental information.

No petition fee is required.

[9] The original reply period specified in the 2/5/02 Notice still applies since Applicants to date have not filed an oath/declaration that complies with 37 CFR 1.63. See *supra* note 2 (The application would become abandoned on 9/6/02 if the maximum extension of 5 months is obtained); and 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath/declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath/declaration . . . **to avoid abandonment**.).

[10] The 1st month of extension starts on 4/6/02. Refer to www.uspto.gov for the extension-of-time fee amount. A proper Certificate of Mailing under 37 CFR 1.8 will be recognized in computing the fee owed.

-by mail and by hand: Assistant Commissioner for Patents
USPTO
Attn: Office of Petitions
Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

-by fax: (703) 308-6916
Attn: Office of Petitions

Finally, the Office acknowledges receipt with the instant petition of the $130 petition fee and the $65 surcharge for late filing of the 4/2/02 Declaration (small entity).

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

Attachment: Form PTO/SB/01 (10/01)
(Declaration for Utility or Design Patent Application (37 CFR 1.63))

UNITED STATES 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 Mar-06

KIMBERLY-CLARK WORLDWIDE, INC.
401 NORTH LAKE STREET
NEENAH WI 54956

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OFFICE OF PETITIONS

In re Application of :
Heidi Bauerlein Hopkins :
Application No. 10/036,664 : DECISION ON PETITION
Filed: 21 December, 2001 :
Atty Docket No. 17723 :

This is a decision on the petition filed on 25 July, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 April, 2005, for failure to timely the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed File Missing Parts of Nonprovisional Application mailed on 26 January, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 25 July, 2005.

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

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

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

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

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

The issue and publication fees will be charged to counsel's deposit account as authorized on the Fee(s) Transmittal form filed on 12 August, 2005 (certificate of transmission date 25 July, 2005).

This application is being referred to the Publishing Division for processing into a patent.

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

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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

Paper No. 6

NOV 26 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Kenneth F. Kozik
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

In re Application of:
Bora Eryilmaz, et al.
Application No. 10/036,675
Filed: December 31, 2001
For: ADAPTIVE LOOKUP TABLE: A GRAPHICAL SIMULATION COMPONENT FOR RECURSIVELY UPDATING NUMERIC DATA STORAGE IN TABLE FORM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed June 12, 2003.

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

The request filed June 12, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

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

James R. Matthews

JM

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

cc: Thomas V. Smurzynski, Esq.
Lahive & Cockfield LLP
28 State Street
Boston, MA 02109-1784

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

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MAY 13 2004

OFFICE OF PETITIONS

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

In re Application of
Scott R. Swix, et al.
Application No. 10/036,677
Filed: December 21, 2001
Attorney Docket No. 36968.267873 (BS01421)

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

This is a decision on the petition, filed March 17, 2004, under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of John C. Alemanni appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Alemanni desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is GRANTED.

The instant nonprovisional application is the subject of an application filed in an eighteen month publication country on December 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 August 19, 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 2611 for further prosecution.

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

cc: JOHN C. ALEMANNI
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101-2400

ATTACHMENT: 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. 7

John N. Anastasi
Wolf, Greenfield & Sacks P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston MA 02210

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SEP 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Jon Strong, Jay Werb, and Colin Lanzl :
Application No. 10/036,710 : DECISION ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. P00723/70048 JNA :
Title: METHOD AND APPARATUS FOR :
INTEGRATING WIRELESS :
COMMUNICATION AND ASSET :
LOCATION

This is in response to the petition under 37 C.F.R. §1.47(a) [1], filed June 6, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.47(a)."

On December 21, 2001, the application was deposited, identifying Jon Strong, Jay Werb, and Colin Lanzl as joint inventors. The application was deposited without a fully executed oath or

[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.

declaration (inventor Strong failed to execute the declaration). On February 26, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $65.00 were required. This Notice set a two-month period for reply.

With the instant petition, the petitioner has included the filing fee for the petition, the $65.00 surcharge, a one-month extension of time to make timely this reply, a copy of an employment agreement signed by the non-signing inventor, a copy of the letter sent to the non-signing inventor, and a copy of his response.

Petitioner has met requirements (1) – (5) of 37 C.F.R. §1.47(a) above.

Regarding the sixth requirement above, no copy of the of the oath or declaration pertaining to the instant application has been submitted with this case[2]. The Rule 47(b) applicant must sign on behalf of the non-signing inventors, and the submitted declaration of the parent application is not relevant to the present application[3].

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[4]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[5]), the reply may be mailed[6].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

[2] The declaration submitted upon filing is associated with Application No. 09/791,037, of which the instant application is a continuation of.
[3] See 37 CFR 1.63(d)(3).
[4] (703) 308-6916, Attn: Office of Petitions.
[5] Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
[6] Commissioner for Patents, Box DAC, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

John N. Anastasi
Wolf, Greenfield & Sacks P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston MA 02210

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DEC 13 2002

OFFICE OF PETITIONS

In re Application of :
Jon Strong, Jay Werb, and Colin Lanzl :
Application No. 10/036,710 : DECISION ON RENWED PETITION
Filed: December 21, 2001 :
Attorney Docket No. P00723/70048 JNA :
Title: METHOD AND APPARATUS FOR :
INTEGRATING WIRELESS :
COMMUNICATION AND ASSET :
LOCATION

This is in response to the renewed petition under 37 C.F.R. §1.47(a) [1], filed November 11, 2002.

The petition is **DISMISSED**.

NOTICE:

Any request for reconsideration of this decision under 37 C.F.R. § 1.47(a) 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. Failure to respond will result in abandonment of the application. The request for reconsideration should include a cover letter entitled "Second Renewed Petition

[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.

under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted in this decision, except that the reply may include an oath or declaration executed by the non-signing inventor.

Thereafter, there will be no further reconsideration of this matter[2, 3].

On December 21, 2001, the application was deposited, identifying Jon Strong, Jay Werb, and Colin Lanzl as joint inventors. The application was deposited without a fully executed oath or declaration (inventor Strong failed to execute the declaration). On February 26, 2002, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $65.00 were required. This Notice set a two-month period for reply.

The original petition was dismissed for failure to meet the sixth requirement above. The submitted declaration pertained to Application No. 09/791,037, the parent of the instant application. It was determined that the Rule 47(b) applicant must sign on behalf of the non-signing inventors, and the submitted declaration of the parent application is not relevant to the present application[4].

With the instant petition, a supplemental declaration has been submitted which correctly identifies the instant application, and is executed by a representative of one "RF Technologies". This declaration is defective for the reason discussed below.

The rule 47(b) applicant must make the required oath or declaration. The declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324[5]. Where an application is executed by one other than the inventor,

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[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.

[3] If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

[4] See 37 CFR 1.63(d)(3).
[5] MPEP 409.03(b).

the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(a). Submission of an oath or declaration in compliance with 37 CFR 1.63 and 1.64 is required, as the declaration submitted with the instant petition has been executed by an employee of RF Technologies, but does not reveal the signor's name or title. Alternatively, petitioner may submit a proper declaration executed by both of the non-signing inventors.

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[6]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[7]), the reply may be mailed[8].

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). However, no final determination has been made on fees for FY03 at this point, and fiscal year 2003 was started with the same fee structure as last fiscal year.

Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent.

For more information, see www.USPTO.gov, click on "News and Notices", and under the "Patents" column you will find the above information[9].
The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

For

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

[6] (703) 308-6916, Attn: Office of Petitions.

[7] Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

[8] Commissioner for Patents, Box DAC, Washington, DC 20231.

[9] The direct URL is: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/feenotice.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

Paper No. 12

John N. Anastasi
Wolf, Greenfield & Sacks P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston MA 02210

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JUN 20 2003

OFFICE OF PETITIONS

In re Application of
Jon Strong, Jay Werb, and Colin Lanzl
Application No. 10/036,710
Filed: December 21, 2001
Attorney Docket No. P00723/70048 JNA
Title: METHOD AND APPARATUS FOR INTEGRATING WIRELESS COMMUNICATION AND ASSET LOCATION

DECISION ON PETITION

This is in response to the second renewed petition under 37 C.F.R. §1.47(a) [1], filed May 28, 2003.

With the second renewed petition, petitioner has submitted a petition for a three month extension of time. As the decision on the renewed petition was mailed on December 13, 2002, set a two month period for response, and the second renewed petition was not transmitted until May 28, 2003, a four month extension of time was required. The deficiency has been charged to petitioner's Deposit Account, as authorized in the petition.

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 CFR §1.63.

The second renewed petition has corrected a previously mentioned deficiency.

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

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

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

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

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

United States Patent and Trademark Office

Jonathan D. Strong
2730 Seville Road
Rittman, OH 44270

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JUN 2 0 2003

OFFICE OF PETITIONS

In re Application of
Jon Strong, Jay Werb, and Colin Lanzl
Application No. 10/036,710
Filed: December 21, 2001
Attorney Docket No. P00723/70048 JNA
Title: METHOD AND APPARATUS FOR INTEGRATING WIRELESS COMMUNICATION AND ASSET LOCATION

LETTER

Dear Mr. Strong:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

John N. Anastasi
Wolf, Greenfield & Sacks P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston MA 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAY 20 2005

OFFICE OF PETITIONS

MOORE & VAN ALLEN
P.O. BOX 13706
RESEARCH TRIANGLE PARK NC 27709

In re Application of :
Radhakrishnan et al :
Application No. 10/036,744 : ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. 9233-71 :

This is a decision on the petition under 37 CFR 1.182, filed August 16, 2004, and supplemented on September 27, 2004, to change the order of the name of the inventors.

The petition is **Granted**.

A Replacement Filing Receipt with the desired name change accompanies this decision on petition.

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

This matter is being referred to Publishing Division.

Karen Creasy

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

ATTACHMENT: REPLACEMENT 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. 4

IVOR R. ELRIFI
C/O MINTZ, LEVIN
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

JUL 1 6 2002

OFFICE OF PETITIONS

In re Application of :
Loren Fast :
Application No. 10/036,768 : NOTICE
Filed: November 6, 2001 :
Attorney Docket No. 18242-511 :

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 PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
www.uspto.g

MAILED

AUG 2 2 2003

Technology Center 2100

Paper No. 8

Priest & Goldstein PLLC
5015 Southpark Drive
Suite 230
Durham, North Carolina 27713-7736

In re Application of: Gerald Pechanek et al.)
Application No. 10/036,789)
Filed: December 21, 2001)
For: MANIFOLD ARRAY PROCESSOR)

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed, August 7 2003, under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.(See MPEP § 711.03(c)).

The petition is **GRANTED**.

The Application was abandoned for failure to file a timely response to the Restriction requirement action mailed on February 25, 2003. A Notice of Abandonment was mailed July 31, 2003.

As the period for response including extensions of time was not set to expire until August 25, 2003 the mailing of the Notice of Abandonment was premature. The Office regrets any inconvenience caused by this precipitate action.

37 C.F.R. § 1.8(b) states:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

In support of the petition, Petitioner provides a copy of the originally submitted amendment and response (2 pages); a certificate of transmission by facsimile signed by Marianna Tortorelli dated March 18, 2003 indicating that 3 pages were being sent (including the fee transmittal sheet); and a copy of an auto-reply response to the facsimile transmission from the U.S. Patent and Trademark Office acknowledging that 4 pages were received (including the cover sheet) on March 18, 2003.

Petitioner has established that a timely response was filed on March 18, 2003 within the 1-month period of response and that no extension of time fees were required for the response.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED.**

The application file is being forwarded to the technical support staff for entry of the response. From there, the application file will be forwarded to the examiner for consideration of the response.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 – 39Q
LIBERTYVILLE IL 60048-5343

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Couts et al.	:	
Application No. 10/036,790	:	DECISION ON PETITION
Filed: December 21, 2001	:	
Attorney Docket No. PF02259NA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 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 August 5, 2008, as required by the Notice of Allowance and Fee(s) Due mailed May 5, 2008. Accordingly, the date of abandonment of this application is August 6, 2008. A Notice of Abandonment was mailed September 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and 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 Joan Olszewski at (571) 272-7751.

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

/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
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Paper No. 7

Perkins Coie LLP
Patent-Sea
PO Box 1247
Seattle, WA 98111-1247

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JUL 2 5 2003

OFFICE OF PETITIONS

In re Application of
Yeshik Shin et al.
Application No. 10/036,794
Filed: November 7, 2001
Attorney Docket No. 594728114US

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2003, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on November 21, 2001. 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.

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

This application is being forwarded to Technology Center Art Unit 2133 for examination in due course.

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

Frances Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Kaushik P. Sriram
Madan, Mossman & Sriram, PC
2603 Augusta Suite 700
Houston, Texas 77057-5638

MAILED

FEB 2 3 2006

TECHNOLOGY CENTER 2100

In re Application of:
Humphrey H. HARDY et al.
Application No. 10/036,813
Filed: December 21, 2001
For: METHOD OF LOAD AND FAILURE PREDICTION OF DOWNHOLE LINERS AND WELLBORES

DECISION ON PETITION UNDER 37 C.F.R. § 1.84(a)(2) TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed January 07, 2003, requesting acceptance of color drawings.

The petition requests that the color drawings of Figures 5, 6, 7, 8A and 8B be accepted in lieu of black and white drawings.

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

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

The petition was filed without the required fee and was filed with three (3) sets of color drawings of Figures 5, 6, 7, 8A and 8B. The specification at page 8, lines 5-7 did contain the required notification described above.

The petition is **GRANTED**.

The Deposit Account 13-0010 will be charged with the required fee of $130.00 set forth under 37 C.F.R. § 1.17(h).

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

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)
6885021	2005-04-26	10036833	2001-12-31	P13085

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-11-02
Name	/Jeffrey S. Draeger/	Registration Number	41000

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. 6885021
Issue Date: April 26,2005
Application No. 10036833
Filed: December 31,2001
Attorney Docket No. ITO.0516US (P13085US)

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

This is a decision on the electronic petition, filed November 3,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOOD PHILLIPS KATZ CLARK & MORTIMER
500 WEST MADISON STREET
SUITE 3800
CHICAGO, IL 60661

COPY MAILED

NOV 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Lisa Baker	:	
Application No. 10/036,840	:	DECISION GRANTING PETITION
Filed: December 21, 2001	:	UNDER 37 CFR 1.181
Attorney Docket No. PG16044P0780US	:	

This is a decision on the "Request to Reinstate Application," filed January 21, 2005, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the present application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action of June 15, 2004, which set a three month shortened statutory period for reply. A Notice of Abandonment was mailed on January 4, 2005.

Petitioner states that a reply to the non-final Office action 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 October 18, 2004 of the following items: "Petition For Extension of Time (1 page) in duplicate, a check in the amount of $110.00 for extension fee, Amendment (9 pages), this return postcard."

The correspondence acknowledged as having been received in the USPTO on October 18, 2004 is not of record in the application file 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 the reply to the non-final Office action of June 15, 2004 was timely received in the USPTO but lost after receipt thereof. This is further corroborated by Office finance records which indicates receipt of the $110 extension of time fee on October 18, 2004.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the instant petition will be accepted in place of the reply acknowledged as having been received in the USPTO on October 18, 2004.

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

This matter is being referred to Technology Center AU 3761 for appropriate action in the normal course of business on the reply received to the non-final Office action of June 15, 2004.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/13/05

TO SPE OF : ART UNIT 1773

SUBJECT : Request for Certificate of Correction on Patent No.: 6861477 B2

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

DRAWINGS

Thank You For Your Assistance

DE
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:

_____

_____

_____

_____

_____

MW
SPE

1774
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 6,921,570

DATED: December 15, 2006

INVENTOR(S): Tom R. Belau, et al.

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

The granting of the petition under 37 CFR 1.47(b) to change inventorship filed December 17, 2004 necessitates a change in the inventorship of this patent. As such, the inventorship is hereby changed by deleting Timothy J. Blenke, Richard T. Wehrle, Rebecca J. Kuepper, Thomas D. Ehlert, and Alan F. Schleinz.

Tom R. Belau is the sole inventor.

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.
10/036,851	12/21/2001	Tom R. Belau	KCC 4844 (KC# 16,629)	4045

7590 12/19/2006

Senniger, Powers, Leavitt & Roedel
One Metropolitan Square
16th Floor
St. Louis, MI 63102

EXAMINER
SALVATORE, LYNDA

ART UNIT	PAPER NUMBER
1771	

MAIL DATE	DELIVERY MODE
12/19/2006	PAPER

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re application of	:	
Tom R. Belau	:	**DECISION ON**
Serial No.: 10/036851	:	**REQUEST**
Filed: May 10, 2001	:	
Patent Number: 6,921,570	:	
Issued: July 26, 2005	:	
For: PATTERN UNBONDED NONWOVEN	:	
WEB AND PROCESS FOR MAKING SAME	:	

This is a decision on the petition received on December 17, 2004 to correct inventorship in the above reference application under 37 CFR § 1.48(b) by deleting the names Timothy J. Blenke, Richard T. Wehrle, Rebecca J. Kuepper, Thomas D. Ehlert, and Alan F. Schleinz.

The cited Rule sets forth:

> (b) *Nonprovisional application —fewer inventors due to amendment or cancellation of claims.* If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, an amendment must be filed requesting deletion of the name or names of the person or persons who are not inventors of the invention being claimed. Amendment of the inventorship requires:
>
> (1) A request, signed by a party set forth in §1.33(b), to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and
>
> (2) The processing fee set forth in §1.17(i).

As both items (1) and (2) are provided in the petition will be honored and the inventorship in this application will be amended leaving Tom R. Belau as the sole inventor.

A Certificate of Correction reflecting the change to the inventorship has been prepared and will issue in due course.

Terrel Morris
Supervisory Patent Examiner
Group Art Unit 1771

UNITED STATES PATENT AND TRADEMARK OFFICE

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NAVAIRWD
COUNSEL GROUP (CODE K0000D)
1 ADMINISTRATION CIRCLE
CHINA LAKE CA 93555-6100

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JUL 2 7 2004

OFFICE OF PETITIONS

In re Application of	:	
Reed et al.	:	
Application No. 10/036,882	:	ON PETITION
Filed: 2 January, 2002	:	
Att'y Docket No. 79377	:	

This is a decision on the petition under 37 CFR 1.137(a),[1] filed on 16 July, 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(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 20 March, 2004, for failure to timely submit a reply to the non-final Office action mailed on

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[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(c)).

19 December, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 June, 2004.

Petitioner asserts unavoidable delay in filing a timely reply because of a docketing error. Specifically, petitioners state that the attorney previously working on this application left counsel's employ and the docketing system failed to identify the case as being assigned to that attorney. The application was therefore not reassigned to a new attorney. Additionally, the application file was inadvertently marked as abandoned by the clerical staff after the abandoned parent file was placed the present application's file.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] 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]

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[2] 35 U.S.C. § 133.

[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,

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).[4] 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.[5]

Turning to petitioner's assertion of docketing error, a delay resulting from an error (e.g. a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and

(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[6]

An adequate showing requires:

(i) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(ii) Petitioner must supply a thorough explanation of the docketing call-up system in use and identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which

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316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6]See MPEP 711.03(c)(III)(C)(2).

would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(iii) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The petition lacks the showing required by items (1), (2), and (3) above.

First, petitioners have not discussed the mechanics of the docketing system, or how cases are assigned to attorneys and the attorney assignment recorded in the docketing system. Furthermore, counsel has not explained why this application was not indicated in the docketing system as being assigned to the former attorney. Was the case marked as assigned to a different attorney, or to no attorney at all? Petitioners should provide statements or declarations of facts by all persons with direct knowledge of, and responsibility for, the docketing processes describing in detail how patent applications are docketed and why this patent was not docketed to the former attorney.

Furthermore, petitioners have not adequately explained why the application file was marked as abandoned when in fact petitioners did not intend for it to be abandoned. Petitioners should explain why this was done, what counsel's normal business practice was, and why that practice failed in this instance. Furthermore, a statement from the employee who marked this file as abandoned explaining why it was so marked should be provided.

Additionally, petitioners have not provided copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

Lastly, petitioners must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks. Petitioners' bare assertion that the docketing system was reliable and the employees sufficiently trained does not constitute a proper showing of unavoidable delay.

In summary, the showing of record is that the delay occurred as a result of multiple mishaps on the part of petitioners. First, petitioners' failed to properly record in the docketing system the attorney to whom this application was assigned, so that it was not reassigned when that attorney left petitioners' employment. Second, the application file was inadvertently and inexplicably marked "abandoned" when the parent file was placed in the present application's file. Third, counsel's clerical staff did not inform any attorneys upon the receipt of the Office action mailed on 19 December, 2003, but rather simply placed the Office action in counsel's files, because they believed counsel was no longer prosecuting this application.

In summary, the showing of record is that the delay in taking action in the above-identified application was result of a lack of diligence rather than unavoidable delay. As the showing of record does not rise to the level of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioners may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

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

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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NAVAIRWD
COUNSEL GROUP (CODE K0000D)
1 ADMINISTRATION CIRCLE
CHINA LAKE CA 93555-6100

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Reed et al. :
Application No. 10/036,882 : ON PETITION
Filed: 2 January, 2002 :
Att'y Docket No. 79377 :

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed on 10 August, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 20 March, 2004, for failure to timely submit a reply to the non-final Office action mailed on 19 December, 2003, which set a three (3) month shortened

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

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

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

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

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

statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 June, 2004. The petition under 37 CFR 1.137(a) filed on 16 July, 2004, was dismissed on 27 July, 2004.

An amendment was submitted with the petition filed on 16 July, 2004, as the required reply.

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 forwarded to Technology Center 1700 for examination in due course.

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

cc: Charlene Haley
NAWCWD CODE: K00000D
1 ADMINISTRATION CIRCLE STOP 1009
CHINA LAKE CA 93555-6100

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA CA 92626-1931

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Benjamin La Borde :
Application No. 10/036,893 : DECISION ON PETITION
Filed: 4 January, 2002 :
Atty Docket No. 101324.0001US1 :

This is a decision on the petition under 1.137(b),[1] filed on 28 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 27 November, 2003, for failure to file a proper reply to the final Office action mailed on 26 August, 2003, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. On 10 November, 2003, petitioner filed a reply which was found not to *prima facie* place the case in condition for allowance. An Advisory Action was mailed on 20

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

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

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

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

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

January, 2004. Notice of Abandonment was mailed on 1 April, 2004.

Petitioner requests that the application be revived for copendency with a concurrently-filed continuation-in-part (CIP) application. A review of Office PALM records reveals that CIP application No. 11/065,784 was filed on 25 February, 2005.

Since this application is revived for purposes of continuity only with continuing Application No. 11/065,784, filed on 25 February, 2005, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced application.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition fee of $750.00 will be charged to counsel's deposit account, No. 50-2191, as authorized in the present petition.

Receipt of the power of attorney and change of correspondence address filed on 28 February, 2005, is acknowledged.

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 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

UNITED STATES PATENT AND TRADEMARK OFFICE

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5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

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OFFICE OF PETITIONS

In re Application of	:	
Keung, et al.	:	
Filed: December 21, 2001	:	ON PETITION
Application No. 10/036,919	:	
Attorney Docket No.: 10122A	:	

This is a decision on the petition under 37 CFR 1.182, filed April 5, 2004, to change the order of inventors in the above-identified application.

The current Office procedure for changing the order of inventors named in an application involves submitting a petition under 37 CFR 1.182 signed by either the attorney or agent of record or all of the applicants designating the desired changed[1].

The instant petition has met the criteria for changing the order of named inventors. Accordingly, the petition is **GRANTED**.

The order of inventors will be changed as follows:

1. J. K. Keung
2. R. G. Peet
3. T. Hellelfinger

This application is being forwarded to the Office of Publications for further processing.

Telephone inquiries pertaining to this decision should be directed to the undersigned at (574) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] *See, also,* MPEP 605.04(f) wherein applicants are strongly encouraged to submit an application data sheet showing the new order of inventor names to ensure appropriate printing of the inventor names in any patent to issue.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

Christopher J. LEONARD
MERCHANT & GOULD, LLC
P. O. Box 2903
Minneapolis, MN 55402-0903

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APR 2 1 2004

OFFICE OF PETITIONS

In re Application of
William MART et al
Application No. 10/036,923
filed: December 21, 2001
Attorney Docket No.BS01424 (36968/267874)

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed March 17, 2004, which is being treated as a petition under 37 CFR1.137(b) to revive the above-identified application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. The filing date of the subsequently filed foreign or international application is: December 16, 2002. However, the USPTO was unintentionally not notified of these filings within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U. S. C. Sect. 122 (b) (2) (B) (I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date was mailed in a separate correspondence.

There is no indication that the person signing the instant petition ~~was ever given~~ currently has a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center Art Unit 2171 for examination in due course.

Inquiries regarding this communication may be directed to Samuel A. Acquah at (703) 605-5229 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Bayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John C. Alemanni
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400

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SCOTT P ZIMMERMAN PLLC
P O BOX 3822
CARY, NC 27519

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OFFICE OF PETITIONS

In re Application of :
William R. Matz, et al. :
Application No. 10/036,923 : ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. 36968/267874 (BS01424) :

This is a decision in response to the petition, filed October 18, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

A review of the record reveals that no abandonment has occurred in this application. Accordingly, the petition is DISMISSED AS MOOT.

In view of this decision, petitioner is entitled to a refund of the $1370 fee included with this petition. Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (703) 308-5077.

The application is being returned to Technology Center 2171 for further consideration of the amendment filed October 11, 2004.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott P Zimmerman PLLC
P O Box 3822
Cary, NC 27519

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
William R. Matz, et al. :
Application No. 10/036,923 :
Filed: December 21, 2001 :
Atty Docket No. 36968/267874 (BS01424) :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed February 16, 2005, which is being treated as a renewed 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 16, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 2171 for further prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 2 9 2008

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA VA 22183

In re Application of
Arnab Das, et al
Application No. 10/036,927
Filed: October 19, 2001
Attorney Docket No. 1998/G-026

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 30, 2008.

The petition is GRANTED.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision on March 21, 2008 by the Board of Patent Appeals and Interferences. This decision precedes the mailing of a Notice of Abandonment. On July 30, 2008, 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 an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the amendment received July 30, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

DARYL C. JOSEPHSON, ESQ.
SQUIRE, SANDERS & DEMPSEY L.L.P.
600 HANSEN WAY
PALO ALTO CA 94304

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JUN 2 4 2002

OFFICE OF PETITIONS

In re Application of	:
DiLena et al.	: DECISION DISMISSING
Application No. 10/036,974	: PETITION
Filed: 29 December, 2001	:
Attorney Docket No. 42922.00048	:

This is a decision on the petition filed on 22 February, 2002 (certificate of mailing date 5 February, 2002) and supplemented on 26 February, 2002 (certificate of mailing date 4 February, 2002), requesting that the above-identified application be accorded a filing date of 28 December, 2001, instead of the presently accorded filing date of 29 December, 2001.

Petitioners request the earlier filing date on the basis that petitioners attempted to deposit the application in Express Mail service on 28 December, 2001, but that USPS employees refused to allow petitioners' counsel to deposit the application in Express Mail. Specifically, petitioners state that counsel arrived at the U.S. Post Office at San Francisco Airport ("SFO-PO")at 11:49 pm, on 28 December, 2001, prior to the 11:59 pm closing time. Counsel states that he entered the post office, but was told by USPS employees prior to his approaching the customer service window that the post office was closed. In pertinent part, petitioners' counsel states in his declaration:

> 4. I arrived at the SFO-PO, December 28, 2001, at 11:49 pm, entered the SFO-PO lobby, and attempted to enter the counter or "service" area of the SFO-PO carrying two packages, one including the above patent application, and filing papers, a self addressed, stamped postcard and a properly addressed mailing label for the patent application.
>
> 5. When I attempted to enter the service area of the SFO-PO, the door to the service area was unlocked and a USPS

agents behind the service area counter were accepting deposits from a small group of customers. No special closing time was visibly posted for December 28, 2001.

6. When I attempted to enter the service area of the SFO-PO, a USPS agent stopped me at the door, told me that the SFO-PO was closed, and refused my entry.

7. I alerted the USPS agent that the time was not yet 11:59 pm, that the package I carried was a legal document and patent application for which a postmark of December 29 was urgent and that my entry must be permitted in order to file and thereby preserve my client's rights. The USPS agent did not contest any part of my statement, but refused my entry telling me merely that the agents behind the counter did not want to serve me.

8. I further requested the USPS agent at the door to hand my package to a USPS agent behind the counter or another customer for deposit, noting that the label included my firm's charge account and completed addressing information. The USPS agents refused.

9. At that point, the USPS agents at the counter and then the USPS agent at the door instructed me to purchase stamps from a vending machine, affix the stamps and droop the stamped package in a drop box. Having no better option, I complied and deposited the stamped Express Mail envelope in the appropriate drop box for Express Mail before midnight.

10. After leaving the SFO-PO and upon arriving home, I further checked the official USPS web site, which posted a closing time for the SFO-PO as 11:59 pm. I could not locate a special SFO-PO closing time for December 28, 2001 on the web site.

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 present petition lacks items (2) and (3).

At the outset, it is noted that the Express Mail Label Number included with the petition is "EL701316235US" while the Express Mail Label Number found on the application papers received on 29 December, 2001, and assigned Application No. 10/036,974 is "EL701363487US". Obviously, in order for the above-identified application to be accorded a filing date of 28 December, 2001,

---

[1] See 37 CFR 1.6(a).

petitioners would need to present a true copy of Express Mail Label No. EL701363487US showing a "date-in" of 28 December, 2001. It is additionally noted that the attorney docket number referenced on the petition filed on 22 February, 2002, and the accompanying Express Mail label is "42922.00106" while the attorney docket number appearing on the application transmittal sheet for the present application is "42922.00048". A review of Office records reveals that no application deposited in the name of the above-named inventor or with the title of the present invention bearing attorney docket number 42922.00106 was received on either 28 or 29 December, 2001. As petitioners have not presented any evidence that a package bearing Express Mail Label Number EL701363487US, the Express Mail number found on the application papers for the above-identified application, was deposited with the USPS on 28 December, 2001, the petition must be dismissed.

Moreover, assuming, *arguendo*, the correct Express Mail Label Number had been provided with the present petition, petitioner's bald assertion that the USPS arbitrarily refused to accept an Express Mail mailing is not persuasive evidence that the date-in was incorrectly entered. If the USPS did in fact refuse to accept counsel's Express Mail package, petitioners should contact the USPS and request an explanation. Any renewed petition, in addition to being accompanied by proof of attempted deposit of the correct Express Mail mailing, should include a letter from the USPS explaining why counsel was not permitted to deposit the application in Express Mail at the Customer Service window on 28 December, 2001, and stating the correct date of deposit of petitioners' application in USPS Express Mail Post Office to Addressee service. Lastly, petitioners have provided no evidence (e.g. a log book or letter to client after mailing) which came into being after deposit and within one business day of deposit.

Accordingly, the petition is dismissed.

The application is being returned to Office of Initial Patent Examination for further processing with the presently accorded filing date of 29 December, 2001.

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

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Donald E. Schreiber, ESQ.
Donald E. Schreiber A Professional Corporation
P.O. Box 2926
Kings Beach CA 96143-2926

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OFFICE OF PETITIONS

In re Application of :
Safwat :
Application No. 10/036,992 :
Filed: December 29, 2001 :
Attorney Docket No. 2194DIV1 :
For: TRAWL SYSTEM CELL DESIGN AND METHODS

ON PETITION

This is a decision on the petition, filed October 26, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 16, 2003 final Office action. No response being received and no extensions of time being obtained, this application became abandoned on March 17, 2004. A Notice of Abandonment was mailed on August 9, 2004.

Applicant has submitted an amendment in reply to the December 16, 2003 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 16, 2003 non-final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 6343 for consideration of the amendment filed October 26, 2005.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: APR 18 2005

MEB
Paper Number:

In re application of
Michael J. Maloney
Serial No. 10/037,000
Filed: December 21, 2001
For: Thermal Barrier Coating Systems and Materials

DECISION ON
PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed January 24, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 3, 2005, for failure to timely reply to the Notice of Allowance of August 23, 2004 be withdrawn. The petitioner asserts that the response was timely filed by facsimile on August 31, 2004, with the appropriate fees.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding a Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed.

As set forth in MPEP 711.03(c) Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed:
37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), or (e) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date. Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held

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

The petitioner's showing that the response and appropriate fees were submitted by facsimile on August 31, 2004 is sufficient. The application will be forwarded to for processing and consideration of the papers filed January 24, 2005, by facsimile transmission (Certificate of Transmission date of August 31, 2004) and a copy of which is provided as an attachment to the instant petition.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

F. TYLER MORRISON
PRATT & WHITNEY
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11/17/05

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In re Application of	:	
Brendon Conlan	:	
Serial Number: 10/037,004	:	DECISION
Filed: January 2, 2002	:	ON
For: Apparatus and Method for Separation of Biological Contaminants	:	PETITION

This is in response to the request filed January 26, 2005, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

James David Jacobs
Baker & McKenzie
805 Third Avenue
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 20 2004

OFFICE OF PETITIONS

In re Application of :
Matz et al. :
Application No. 10/037,005 : DECISION GRANTING PETITION
Filed: December 21, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 36968/267872 :

This is a decision on the petition, filed August 23, 2004,[1] and again on October 18, 2004,[2] which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on December 16, 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.

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[1]The petition filed on August 23, 2004, was submitted by the law firm of Kilpatrick Stockton LLP.

[2]The second petition filed on October 18, 2004, was submitted by Scott P. Zimmerman.

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

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

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

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

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

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 31, 2005, accompanies this decision on petition.

The Office notes that the current address of record is Merchant & Gould PC, P.O. Box 2903, Minneapolis, MN 55402-0903. On April 4, 2004, Scott P. Zimmerman submitted a request to change the correspondence address. The Office records do not indicate that Mr. Zimmerman has power of attorney in this application. Accordingly, the correspondence address cannot be made of record. If Mr. Zimmerman desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to the law firm of Kilpatrick & Stockton and Mr. Zimmerman. However, all future correspondence will be directed to Merchant & Gould at the address of record until such time as appropriate instructions are received to the contrary.

The Office finance records indicate that the petition fee was paid twice. The second petition fee submitted on October 18, 2004, is not necessary. Therefore, petitioner may request a

refund of the $1,370.00 petition fee by writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center Art Unit 2611.

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

Christina L. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

cc: Scott P. Zimmerman
P.O. Box 3822
Cary, NC 27519

Kilpatrick & Stockton, LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott P. Zimmerman PLLC
P.O. Box 3822
Cary NC 27519

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of :
Matz et al. : DECISION ON PETITION
Application No. 10/037,005 :
Filed: 12/21/2001 :
Attorney Docket No. 36968/267872 :

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

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed November 15, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on February 16, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2623.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/05/06

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/037010** Patent No.: **6862301**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Douglas K. Owens — SPE

2821 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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JAN 2 4 2006

OFFICE OF PETITIONS

In re Application of :
KS Venkatraman, et al. :
Application No. 10/037,023 : ON PETITION
Filed: January 2, 2002 :
Attorney Docket No. 42390P13420 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 1, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 25, 2005. A Notice of Abandonment was mailed on October 14, 2005. Receipt is acknowledged of the requisite issue/publication fee on November 1, 2005.

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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Publishing Division.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Demetrios Stamatelakis, et al. :
Application No. 10/037,031 : ON PETITION
Filed: January 2, 2002 :
Attorney Docket No. LAMA118471 :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed January 2, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 27, 2006. On January 2, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on February 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/037034 Patent No.: 7230916

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

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

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

Certificates of Correction Branch

703-308-9390 ext. _____

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: according to column 43, line 18 does not include "each statelet broadcast through the network being modified at each intermediate node to update a route field in the statelet that records the successive nodes by which the statelet has been broadcast;". This limitation should be at column 44, line 21.

/Yao Kwang/
SPE

2416
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 9209

Paper No.: _____

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/037031 Patent No.: 7230916

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

FOR IFW FILES: Please Check Reconsideration

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

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

FOR PAPER FILES:

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

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

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

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

Comments: _____

/Kwang Yao/ 2473
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

VIDAS, ARRETT & STEINKRAUS,
P.A.
SUITE 400,
6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Application of :
Jonathan S. Stinson :
Application No. 10/037,036 : ON APPLICATION FOR
Filed: October 25, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. S63.2-9919-US01 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT, 37 CFR 1.705 filed on December 22, 2008. Applicant requests that the determination of patent term adjustment be increased by one thousand one hundred seventy (1170) days to one thousand nine hundred ten (1910) days.[1] Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the

[1] Applicant calculates the three year period as 1170 days, counting the number of days over three years until the mailing of the notice of allowance on October 3, 2008. Applicant requests additional days for the interval from the mailing of the notice of allowance to the issue date.

patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of 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 decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

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
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Paper No.

VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,572,287	:	DECISION ON REQUEST
Johnathan S. Stinson	:	FOR
Issue Date: 08/11/2009	:	RECONSIDERATION OF
Application No. 10/037,036	:	PATENT TERM ADJUSTMENT
Filed: 10/25/2001	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
S63.2-9919-US01	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 9, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by two thousand one hundred twenty-two (2122) days. For the reasons stated below, the petition is treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one thousand six hundred thirty-two (1632) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred thirty-two (1632) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is the period beginning on October 26, 2004, the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) and ending on August 11, 2009, the date the application issued as a patent, or 1751 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Any time consumed by appellate review, however, is not included in the calculation of 37 CFR 1.702(b).

See 35 U.S.C. 154(b)(1)(B)(ii). On December 21, 2004, a notice of appeal was filed. On March 3, 2006, 439 days after the date the notice of appeal was filed, an Office action was mailed. On September 12, 2007, a notice of appeal was filed. On June 30, 2008, 293 days after the date the notice of appeal was filed, an Office action was mailed. On September 16, 2008, a notice of appeal was filed. On October 3, 2008, 18 days after the date the notice of appeal was filed, a notice of allowance was mailed. Accordingly, the excluded period for appeal is 750 (439 + 293 + 18) days, and the "B" delay period is 1001 (1751 - 750) days.

Further, the 109 days between the day after the date four months after the date of filing of the appeal brief filed on November 13, 2007, and the mailing of the Office action mailed on June 30, 2008, and the 110 days between the day after the date four months after the date the issue fee was paid on December 23, 2008, and the issuance of the patent on August 11, 2009, overlap with the 1001 days.

Thus, the non-overlapping period is 782 (1001 - 109 - 110) days. Therefore, the total "B" adjustment is 782 days.

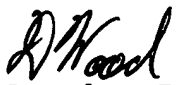
The patent term adjustment at the time of issuance of the patent is 1632 (883 (400 + 4 + 260 + 109 + 110) days of Office delay + 782 days of over three years delay - 33 days of applicant delay) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand six hundred thirty-two **(1632)** days.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,572,287 B2

DATED : **August 11, 2009** **DRAFT**

INVENTOR(S) : Stinson

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 1718 days.

Delete the phrase "by 1718 days" and insert – by 1632 days--

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6792943	2004-09-21	10037037	2001-10-25	

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	/CraigFTaylor/	Date (YYYY-MM-DD)	2009-02-15
Name	Craig F. Taylor	Registration Number	40199

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. 6792943
Issue Date: September 21,2004
Application No. 10037037
Filed: October 25,2001
Attorney Docket No. 44931.1.4.MHT

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

This is a decision on the electronic petition, filed February 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

COPY MAILED

AUG 0 6 2002

OFFICE OF PETITIONS

In re Application of :
Zahm et al. :
Application No. 10/037,064 : DECISION GRANTING PETITION
Filed: November 7, 2001 :
Attorney Docket No. 9526 :

This is a decision on the petition filed April 16, 2002, to accord the above-identified application a filing date of November 7, 2001.

On November 7, 2001, the application was deposited.

On March 6, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of the drawings.

In response, the present petition alleges that drawings are not "necessary for the understanding of the subject matter sought to be patented" within the meaning of 35 USC 113.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113.

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

The Notice mailed March 6, 2002, is hereby vacated.

The petition fee of $130 will be credited to the deposit account listed on the petition.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 7, 2001, using the application papers filed on November 7, 2001.

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

Charles Steven Brantley
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. 4

Edward A. Van Gieson
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

SEP 27 2002

In re Application of)
Kenneth M. Maxham)
Application No. 10/037,085) DECISION ON REQUEST TO
Filed: December 20, 2001) WITHDRAW FROM RECORD
Docket No. 21216-05666)

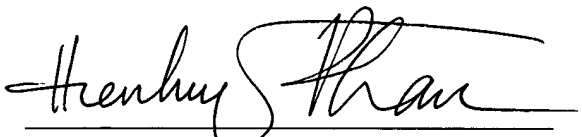
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 27, 2002.

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

The request was signed by Edward A.Van Gieson on the behalf of all the attorneys of record.

The request is APPROVED.

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



Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Optical and Electrical
Systems and Components

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

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MINNEAPOLIS, MN 55440-1022

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of
John D. PUTERBAUGH, et al.
Application No. 10/037,097
Filed: December 31, 2001
Attorney Docket No. **28891-101**

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 23, 2009 and re-submitted March 24, 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.

The request was signed by Elliott J. Mason, III on behalf of all attorneys of record who are associated with customer No. 26161. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the address below until otherwise properly notified by the applicant.

The application issued into patent number 7,027,983 on April 11, 2006.

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

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

cc: **NELLYMOSER, INC.**
11 WATER STREET
ARLINGTON, MA 02476

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AUG 2 2 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE NM 87125-6927

In re Application of :
Sauer et al. :
Application No. 10/037,116 :
Filed: October 22, 2001 :
For: MESSAGING SYSTEM FOR MOBILE COMMUNICATION :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on July 17, 2003.

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

Petitioner has met all of the above.

Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed are granted the request for withdraw. Andrea L. Mays remains of 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.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: DAVID HUFFAKER, ESQ.
KYOCERA WIRELESS CORPORATION
10300 CAMPUS POINT DRIVE
SAN DIEGO, CA 92121

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Paper No. 8

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OCT 14 2003

OFFICE OF PETITIONS

In re Application of
Yeshik Shin et al.
Application No. 10/037,168
Filed: November 7, 2001
Attorney Docket No. 594728102US
Title: METHOD AND SYSTEM FOR PLESIOSYNCHRONOUS COMMUNICATIONS WITH NULL INSERTION AND REMOVAL

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

This is a decision on the petition filed on July 3, 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 November 21, 2001. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

On February 8, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, notification of the filing of the international application did not accompany this filing.

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

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

Petitioner has submitted the notification of 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.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE ECLIPSE GROUP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Ara Gharapetian : DECISION ON PETITION
Application No. 10/037,208 :
Filed: January 4, 2002 :
Atty Docket No. HI06036USU :
(P01003US) :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 9, 2007.

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 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)."

The above-identified application became abandoned effective September 9, 2005.for failure to file a timely reply to the final Office action mailed June 8, 2005. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A courtesy Notice of Abandonment was mailed on April 10, 2006.

The petition includes a proposed reply in the form of a request for continued examination and submission under §1.114 (and RCE fee), a statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is deemed required at this time. However, the

instant petition is not grantable because it does not satisfy requirement 1.137(b)(3).

35 U.S.C. 133 provides that:

> 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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

35 U.S.C. 41(a)(7) allows for payment of a fee to revive an application for a patent abandoned unintentionally. The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), reveals that the purpose of 35 U.S.C. 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion stating that "[u]nder this section a petition accompanied by [the requisite fee] would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71.

Implementing regulations 37 CFR 1.137(b) provides, in pertinent part, that:

If the delay in reply by applicant was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application. A grantable petition pursuant to this paragraph 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 Director may require additional information where there is a question whether the delay was unintentional; and

> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

In this instance, the application became abandoned effective September 9, 2005. Two years elapsed without any substantive action on the part of petitioners. A power of attorney was filed on October 10, 2006. However, this petition, including the response to the Office action, was not filed until November 9, 2007. The petition includes a statement that the entire delay in filing the required reply from the due date was unintentional. Under the circumstances, additional information is requested.

The burden of proof to show that the cause of the delay was "unintentional" (or "unavoidable") is on applicant. Thus, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

It is well established that a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b). Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). An intentional course of action is not rendered unintentional when, upon reconsideration, the applicant changes his or her mind as to the course of action that should have been taken. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). A delay resulting from a deliberately chosen course of action on the part of the applicant does not become an "unintentional" delay within the meaning of 37 CFR 1.137(b) because:

(A) the applicant does not consider the claims to be patentable over the references relied upon in an outstanding Office action;
(B) the applicant does not consider the allowed or patentable claims to be of sufficient breadth or scope to justify the financial expense of obtaining a patent;
(C) the applicant does not consider any patent to be of sufficient value to justify the financial expense of obtaining the patent;
(D) the applicant does not consider any patent to be of sufficient value to maintain an interest in obtaining the patent; or
(E) the applicant remains interested in eventually obtaining a patent, but simply seeks to defer patent fees and patent prosecution expenses.

Likewise, a change in circumstances that occurred subsequent to the abandonment of an application does not render "unintentional" the delay resulting from a previous deliberate decision to permit an application to be abandoned. These matters simply confuse the question of whether there was a deliberate decision not to continue the prosecution of an application with why there was a deliberate decision not to continue the prosecution of an application.

In view thereof, it is appropriate to request additional explanation as to why the delay in filing a response to the Office action and in filing a petition should be considered unintentional within the meaning of § 1.137(b).

Further correspondence with respect to this decision 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: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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GRANADA HILLS CA 91344

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of :
Ara Gharapetian : DECISION ON PETITION
Application No. 10/037,208 :
Filed: January 4, 2002 :
Atty Docket No. HI06036USU :
(P01003US) :

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(b) filed June 2, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned effective September 9, 2005 for failure to file a timely reply to the final Office action mailed June 8, 2005. A courtesy Notice of Abandonment was mailed on April 10, 2006. By decision mailed March 31, 2008, the initial PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 9, 2007 was dismissed.

The petition included a proposed reply in the form of a request for continued examination and submission under §1.114 (and RCE fee), a statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). However, additional information was required to make the showing that the entire delay in filing the required reply and in filing the instant petition was unintentional within the meaning of 37 CFR 1.137(b)(3).

In response, applicants timely filed the instant petition. In support thereof, applicants submitted a statement of facts by

registered patent attorney Jennifer Hamilton. This statement sets forth the facts and circumstances of the abandonment of the application and of the delay in filing a petition. This additional statement has been considered. 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). It is concluded that the showing of record is sufficient to establish that the entire delay was unintentional.

Applicants previously submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment) and paid the petition fee.

Applicants have now met all requirements for revival pursuant to 37 CFR 1.137(b).

Technology Center AU 2116 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 November 9, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THE ECLIPSE GROUP LLP
10605 BALBOA BLVD.
SUITE 300
GRANADA HILLS CA 91344

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FEB 04 2010

In re Application of :
Ara Gharapetian : DECISION ON PETITION
Application No. 10/037,208 :
Filed: January 4, 2002 :
Atty Docket No. HI06036USU :
(P01003US) :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 8, 2010.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the final Office action mailed January 12, 2009. A response was filed on March 12, 2009. However, by Advisory Action mailed March 20, 2009, applicant was advised that the reply failed to place the application in condition for allowance. A further reply in the form of a notice of appeal was filed on April 13, 2009. However, the extension of time required for consideration of this reply was not filed. Accordingly, the application became abandoned. A courtesy Notice of Abandonment was mailed on December 14, 2009.

In response, on January 8, 2010, applicant filed the instant petition. As stated a notice of appeal was previously filed. The petition included a reply in the form of an appeal brief, the petition fee, and the required statement of unintentional delay. Petitioner has met the requirements for revival pursuant to 37 CFR 1.137(b).

Technology Center AU 2116 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center for consideration by the examiner of the Appeal Brief.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
ZUCHERMAN, James F. et al. :
Application No. 10/037,236 : DECISION ON PETITION
Filed: November 09, 2001 : TO WITHDRAW
Attorney Docket No. **5910-162** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on December 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **COATS & BENNETT/MEDTRONICS**
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

MAILED

JUL 22 2003

Technology Center 2100

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

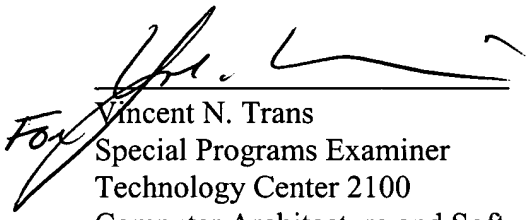
In re Application of: Dale w. Hopkins, et al.)
Application No. 10/037,238)
Filed: December 20, 2001) **DECISION ON REQUEST FOR**
For: GROUP SIGNATURE GENERATION) **WITHDRAWAL AS ATTORNEY**
SYSTEM USING MULTIPLE)
PRIMES)

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.



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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Document No. 4

Kevin G. Mierzwa
Artz & Artz PLC
Suite 250
28333 Telegraph Road
Southfield MI 48034

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Application of
Haghooie, et al.
Application No. 10/037,250
Filed: January 7, 2002
Attorney Docket No. 201-0662

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10 filed, March 4, 2003.

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 1.10."

The instant petition was filed to correct what petitioner believed was an incorrect filing date accorded the above-cited application. Petitioner maintains that the correct filing date for the application should be November 9, 2001, not the currently accorded date of January 7, 2002. In support thereof, petitioner filed a copy of the application transmittal showing a certificate of mailing dated November 9, 2001.

Section 1.10(a) of the Title 37 of the Code of Federal Regulations indicates that correspondence received by the Patent and Trademark Office that was delivered by Express Mail will be considered filed in the Office on the date of deposit with the United States Postal Service. Where there is a discrepancy between the date of deposit as shown on the Express Mail label and the filing date accorded the correspondence by the Office, 37 CFR 1.10(c) provides that an applicant may petition to have the Commissioner accord the correspondence a filing date as of the "date in" on Express Mail label. In accordance with 37 CFR 1.10(c), a successful petition must:

> (1) . . . be 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) [provide] the number on the Express Mail mailing label was placed on a paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail; and
>
> (3) . . . include 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.

The instant petition does not satisfy the requirements of items (1) and (2) above.

Relative to item (1), petitioner did not indicate when petitioner discovered that the filing date accorded was allegedly incorrect. As it appears that an extended time has passes since the according of the filing date and the filing of the instant petition, petitioner must provide an explanation for the delay in filing the instant petition.

Relative to item (2), petitioner has not provided sufficient proof that Express Mail package EL764776666 was deposited with the United States Postal Service on November 9, 2001. The certificate of mailing cannot be used to establish a filing date for an application. See 37 CFR 1.8(a)(i)(A). Further, a copy of the Express Mail label showing the "date-in" was not provided, nor any other official notation form the United States Postal Service indicating that the subject package was deposited on November 9, 2001. With any renewed petition filed, petitioner must provide satisfactory evidence that the Express Mail package was either deposited or picked up on November 9, 2001.

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

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROOKS & KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD, MI 48075

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MAY 2 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Reissue Application of Patent No. 6,010,174 :
Original Patent Issued: January 4, 2000 :
Reissue Application No. 10/037,280 :
Filed: January 4, 2002 :
Attorney Docket No. 6835 :

This decision concerns the February 24, 2003 "Petition under 37 CFR 1.47(a)" which, in essence, requests that a supplemental reissue declaration not signed by one of the joint-inventors be accepted. The petition is being properly treated as a petition under 37 CFR 1.183.[1]

The petition is **GRANTED.**

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Background:

The chronology of events pertinent to the instant petition is summarized below:

1/4/02: Original, **unexecuted**, reissue declaration filed;

3/15/02: "Notice to File Missing Parts of Reissue Application" mailed, giving Applicants an extendable 2-month period for submitting an executed oath/declaration;

4/12/02: "Reissue Application Declaration and Power of Attorney by Named Inventors" (**first supplemental reissue declaration**), **executed by all 3 inventors**, filed;[2]

10/17/02: Non-final Office action mailed, indicating, *inter alia*, that the 1/4/02 declaration (and thus also the 4/12/02 declaration) was **defective** because it lacked certain components of a reissue oath/declaration as required by

---

[1] MPEP section 1414.01 (Rev.1, Feb. 2003): "If a joint inventor refuses or cannot be found or reached to sign a supplemental oath/declaration, a supplemental oath/declaration listing all the inventors, and signed by the available inventors, may be filed provided it is accompanied by a petition under 37 CFR 1.183 . . . requesting waiver of the signature requirement of the nonsigning inventor."

[2] Except for the signatures, the contents are identical to the 1/4/02 declaration.

37 CFR 1.63(a)(4)[3] and 1.175(a)(2);[4] and, setting forth a 3-month shortened statutory reply period;

2/24/03: The instant petition filed along with a 1-month extension of time and the requisite extension-of-time fee.

Analysis:

Three inventors are named in the application: Jay A. Murdock ("Murdock"), Edward G. Curtindale ("Curtindale"), and Ryan E. Dillingham ("Dillingham"). Consequently, a supplemental oath/declaration for this application must be signed by all three since the defects in the 1/4/02 declaration[5] apply to all of them.[6]

Accompanied by a "Reissue Application Declaration and Power of Attorney by Named Inventors" that has cured the defects noted in the Office action but is signed by only Murdock and Curtindale ("**second supplemental reissue declaration**"), the petition asserts that Dillingham cannot be reached after diligent effort, and requests that the two available inventors be allowed to file this application on behalf of themselves and Dillingham.

In the instant case, Murdock and Curtindale may file the application on behalf of themselves as well as Dillingham, provided that the petition includes Dillingham's last known address; and a statement of facts, signed by a person with firsthand knowledge of the facts cited therein, establishing that a **diligent effort** had been made to locate Dillingham, and that notwithstanding such an effort, Dillingham could not be found.[7]

According to the petition and the accompanying exhibits:

(1) A package mailed to Dillingham at his last known address[8] on January 8, 2003

---

[3] I.e., that the person making the oath/declaration believes the named inventors to be the first inventors. The Office action incorrectly referenced §1.63(b)(2). The Office action also indicates that the inventors are required by §1.63(a)(4) to state that they are joint inventors. This requirement is not in the current version of 37 CFR.

[4] I.e., that all errors being corrected in the reissue application up to the filing of the oath/declaration arose without any deceptive intention of the applicant.

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[5] See *supra* notes 3, 4.

[6] See MPEP section 1414.01 (Rev. 1, Feb. 2003), quoting In re Hayes, 53 U.S.P.Q.2d 1222, 1224 (Comm'r Pat. 1999).

[7] 37 CFR 1.47(a); MPEP section 409.03(d) INVENTOR CANNOT BE REACHED (Rev. 1, Feb. 2003).

[8] This is ordinarily the nonsigning inventor's last known residence, which may enable the PTO to communicate directly with the inventor as necessary. See 37 CFR 1.47(a); MPEP sections 409.03(e), 605.03 (Rev. 1, Feb. 2003). (Note: Had this petition involved an original reissue declaration, §1.47 would have been directly applicable; but the underlying rationale is the same)

was undeliverable, and was returned to Assignee's counsel, the sender, on January 16, 2003.

(2) Assignee's counsel tried to contact Dillingham through his last known telephone number on January 15, 2003, and was informed that another party had acquired that telephone number.

(3) Assignee's counsel conducted a name search on Internet;[9] found only 1 name matching that of Dillingham's; called that person on February 6, 2003 and left a message regarding the purpose of the telephone call; but, as of February 18, 2003 when the petition was signed and mailed, did not receive any response.

In view of the above, the Office concludes that a reasonably diligent effort had been made by Assignee's counsel to locate or reach Dillingham, and that the latter could not be located or reached despite such an effort. The petition is thus granted.

The second supplemental reissue declaration submitted with the instant petition is hereby accepted.[10]

Finally, the Office acknowledges receipt with the petition of the $130 petition fee, an amendment in response to the October 17, 2002 non-final Office Action, and a Supplemental Information Disclosure Statement.

The application file is being returned to Technology Center 3600 for further examination.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

BEST AVAILABLE CO

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions

---

9 www.switchboard.com; www.whitepages.com.

10 The $130 surcharge for failure to submit an acceptable oath/declaration upon filing of the application was previously remitted on 4/12/02 with the 1st supplemental reissue declaration.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROOKS KUSHMAN P.C. / LEAR CORPORATION
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075-1238

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Murdock et al.	:	DECISION ON PETITION
Application No. 10/037,280	:	
Filed: 4 January, 2002	:	
Attorney Docket No. LEAR 0960 R / 11609	:	

This is a decision on the petition filed on 20 October, 2005, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 4 January, 2002, the application was filed as an application for reissue of U.S. Patent No. 6,010,174.

2. On 12 April, 2002, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Jay A. Murdock, Edward G. Curtindale, and Ryan E. Dillingham as joint inventors.

3. On 9 August, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

4. On 20 October, 2005, an amendment was filed, along with a supplemental reissue declaration, and the present petition, whereby petitioners assert that joint inventor Ryan E. Dillingham cannot be located to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Ryan E. Dillingham on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Dillingham on the supplemental declaration filed on 20 October, 2005.

CONCLUSION

1. The petition is granted.

2. It is noted that petitioners submitted $130.00 with the present petition. Effective 8 December, 2004, however, the fee for a petition under 37 CFR 1.183 is $400.00. As such, the balance of $270.00 will be charged to counsel's deposit account, No. 02-3978 as authorized on the application transmittal sheet filed on 4 January, 2002.

3. The application is being referred to Technology Center Art Unit 3612 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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DW 06-02

Paper No. 4

DOUGLAS W. SWARTZ
SHERIDAN ROSS P.C.
SUITE 1200
1560 BROADWAY
DENVER CO 80202-5141

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JUL 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Peter Kotsinadelis	:	
Application No. 10/037,284	:	DECISION GRANTING PETITION
Filed: 3 January, 2002	:	
Atty Docket No. 4366-47	:	

This is a decision on the petition styled under 37 CFR 1.182, filed on 13 February, 2002, which is treated as a petition requesting that the above-identified application be accorded a filing date of 3 January, 2002, with three (3) sheets of drawings as a part of the original disclosure.

On 3 January, 2002, the application was filed.

On 4 February, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings.

In response, on 13 February, 2002, the present petition, a $130.00 petition fee, and three (3) sheets of drawings were filed. Petitioner argues that three (3) sheets of drawings were filed with the other application papers on 3 January, 2002, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's postcard receipt was supplied with the petition. The postcard receipt, which shows an Office stamp of 3 January, 2002, and the above-identified application number, acknowledges receipt of, *inter alia*, 3 sheets of drawings. Petitioner requests that the application, including three (3) sheets of drawings, be accorded a filing date of 3 January, 2002.

Upon review of the record, no sheets of drawings deposited on 3 January, 2002, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 3 January, 2002, included three (3) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including three (3) sheets of drawings, was complete on filing and entitled to a filing date of 3 January, 2002.

In view of the above, the petition is granted. The application will be processed with the three (3) sheets of drawings submitted with the present petition. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 19-1970.

The "Notice" mailed on 4 February, 2002, was sent in error and is hereby withdrawn.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 3 January, 2002, using the application papers filed on that date, and the three (3) sheets of drawings supplied on 13 February, 2002, and for an indication on the bib-data sheet that three (3) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

D Wood

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

Beverly M. Flanagan

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

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6-19-02	2 Serial/Patent # 10/037284

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
122	Petition	3	2-13-02	$ 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 1 9 -- 1 9 7 0

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

PET DOC TO PTO ERROR

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: _____ TITLE: _____

SIGNATURE: _____ PHONE: _____

OFFICE: _____

****

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APPROVED: Alicia Kelly DATE: 7/2/02

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Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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#14

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FROM DIRECTORS OFFICE

JAN 14 2005

TECHNOLOGY CENTER 3600

Samuels, Gauthier & Stevens LLP
225 Franklin Street, Suite 3300
Boston, MA 02110

In re Application of
Philipp Harald Nagel
Application No. 10/037,303
Filed: November 7, 2001
For: APPARATUS AND METHOD FOR CREATING A NAVIGATION MAP

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on November 26, 2004.

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

☐ Postcard receipt being dated_____.

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

☒ Certificate of Mailing signed on January 21, 2004 and supported by a statement under 37 C.F.R. 1.8(b)(3), by the attorney requesting withdrawal.

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

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

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

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

KJD/rwg: 1/10/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER, NJ 07921

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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of :
Harry W. Eberle, III :
Application No. 10/037,325 : ON PETITION
Filed: January 3, 2002 :
Attorney Docket No. 0247-5 :

This is a decision on the petition, filed September 22, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **granted**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed October 20, 2005, 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 November 21, 2005. *See* MPEP 1215.04.

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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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 Appeal Brief, and fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3679.

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

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Paper No.

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

Applicant: Ishii

Application No. 10/037,329
Filed: November 9, 2001
Attorney Docket No.:09812-0170-00

: ON PETITION
: under 37 CFR 1.183
: and 37 CFR 1.705(d)
: REQUEST FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

The request for reconsideration of patent term adjustment under 37 CFR 1.183 to waiver of the requirements under 37 CFR 1.705(d) is **GRANTED**.

This is a decision on the petition filed on November 21, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted in accordance with Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted according to the decision, which results in one thousand nine hundred sixty-five days (1965) is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand sixty-five (1965)** days.

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 Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

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

Cc: Adjusted PTA Calculation
Draft Certificate of Correction

PALM INTRANET

Day : Monday
Date: 7/19/2010
Time: 07:40:55

PTA Calculations for Application: 10/037329			
Application Filing Date:	11/09/2001	PTO Delay (PTO):	1295
Issue Date of Patent:	05/27/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1965
PTO Delay Adjustment:	670		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	07/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	670		
62.5	05/07/2008	PTA 36 MONTHS	125		
62	05/27/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
61	03/11/2008	EXPORT TO FINAL DATA CAPTURE			
60	03/06/2008	DISPATCH TO FDC			
59	03/06/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
58	02/27/2008	ISSUE FEE PAYMENT VERIFIED			
57	02/27/2008	ISSUE FEE PAYMENT RECEIVED			
56	11/29/2007	MAIL CORRECTED NOTICE OF ALLOWANCE			
55	11/29/2007	CORRECTED NOTICE OF ALLOWANCE			
54	11/29/2007	MAIL CORRECTED NOTICE OF ALLOWANCE (RESPONSE PERIOD NOT RESTARTED)			
53	11/29/2007	CORRECTED NOTICE OF ALLOWANCE			
52	11/16/2007	MAILING CORRECTED NOTICE OF ALLOWABILITY			
51	11/15/2007	CORRECTED NOTICE OF ALLOWABILITY			
50	09/25/2007	FINISHED INITIAL DATA CAPTURE			
49	08/22/2007	MAILING CORRECTED NOTICE OF ALLOWABILITY			
48	08/21/2007	CORRECTED NOTICE OF ALLOWABILITY			
47	08/06/2007	EXPORT TO INITIAL DATA CAPTURE			
46	07/26/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
45	07/18/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
44	07/19/2007	MAIL NOTICE OF ALLOWANCE			
43	07/19/2007	MAIL EXAMINER'S AMENDMENT			
42	05/17/2007	ISSUE REVISION COMPLETED			
41	05/15/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
40	05/15/2007	DOCUMENT VERIFICATION			
39	03/24/2006	MISCELLANEOUS INCOMING LETTER			
38	05/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
37	05/14/2007	EXAMINER'S AMENDMENT COMMUNICATION			
36	05/14/2007	NOTICE OF ALLOWABILITY			
35	05/04/2007	DATE FORWARDED TO EXAMINER			
34	04/25/2007	RESPONSE AFTER NON-FINAL ACTION			
33	01/25/2007	MAIL NON-FINAL REJECTION			
32	01/22/2007	NON-FINAL REJECTION			
31	11/06/2006	DATE FORWARDED TO EXAMINER			
30	10/17/2006	RESPONSE AFTER NON-FINAL ACTION			
29	09/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
28	07/17/2006	MAIL NON-FINAL REJECTION			
27	07/10/2006	NON-FINAL REJECTION			
26	06/07/2006	TRANSFER INQUIRY TO GAU			
25	04/19/2006	DATE FORWARDED TO EXAMINER			
24	04/11/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	03/24/2006	MAIL RESTRICTION REQUIREMENT	1170		-1
22	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
21	03/20/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
20	12/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	12/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
18	09/13/2005	CORRESPONDENCE ADDRESS CHANGE			
17	09/13/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	11/13/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	11/09/2001	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	07/14/2003	CASE DOCKETED TO EXAMINER IN GAU			
13	12/03/2002	CASE DOCKETED TO EXAMINER IN GAU			

12	11/19/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
10	04/30/2002	APPLICATION DISPATCHED FROM OIPE			
9	04/29/2002	APPLICATION IS NOW COMPLETE			
8	03/27/2002	ADDITIONAL APPLICATION FILING FEES			
7	03/27/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	02/25/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
5	02/06/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/06/2002	CORRESPONDENCE ADDRESS CHANGE			
3	02/05/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	01/22/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/09/2001	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,379,760 B2

DATED : May 25, 2008 **Draft**

INVENTOR(S) : Ashii

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 (1965) days

Delete the phrase "by 1295 days" and insert – by 1965 days--

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CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301

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OFFICE OF PETITIONS

In re Application of
Copeland et al.
Application No. 10/037,337
Filed: December 21, 2001
Attorney Docket No. 1281-76U (C4-599)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

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

This matter is being referred to Technology Center 2632 for further processing.

Liana Walsh
Petitions Examiner
Office of Petitions

[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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

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JAN 12 2005

OFFICE OF PETITIONS

In re Application of :
Wade C. Patterson et al :
Application No. 10/037,343 : DECISION GRANTING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 00-0895-18/US :

This is a decision on the petition, filed November 4, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 23, 2001. 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(©) 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 21, 2005 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3754.

Karen Creasy

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEMORANDUM - CERTIFICATE OF CORRECTION

DATE: 03/12/2008
TO: Certificate of Corrections Branch
FROM: Yogendra N. Gupta
SPE, Art Unit 1791
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please Issue a Certificate of Correction in U. S. Letters Patent No. 6,846,448 B2 as specified on the attached Certificate.

Yogendra N. Gupta
S.P.E., Art Unit 1791

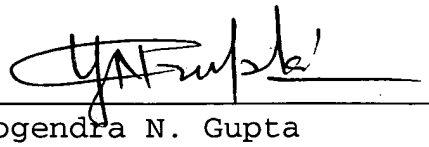
UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,846,448 B2
Patented: January 25, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Timothy James Rymer, Appleton, WI (US)
Michael Barth Venturino, Appleton, WI (US)
Mark Scott Lancaster, Neenah, WI (US)
Robert Eugene Vogt, Neenah, WI (US)
Dennis John DeGroot, Appleton, WI (US)
Michael Joseph Garvey, Appleton, WI (US)
James Alvin Boldra, Menasha, WI (US)
Frank Paul Abuto, Duluth, GA (US)
Fung-jou Chen, Appleton, WI (US)
Jeffrey Dean Lindsay, Appleton, WI (US)



Yogendra N. Gupta
Supervisory Patent Examiner,
Art Unit 1791

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN W. WEINRIEB
LAW OFFICES OF STEVEN W. WEINRIEB
8717 COLD SPRING
POTOMAC MD 20854

MAILED

APR 1 4 2009

OFFICE OF PETITIONS

In re Application of :
Ronald Michalski et al :
Application No. 10/037,386 : DECISION ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. (13426) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply received March 17, 2009, is accepted as having been unintentionally delayed.

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

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on March 17, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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MAR 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Baltimore, et al. :
Application No. 10/037,415 : DECISION GRANTING
Filed: January 4, 2002 : PETITION
Attorney Docket No. APBI-P04-035 :
For: NUCLEAR FACTORS ASSOCIATED :
WITH TRANSCRIPTIONAL
REGULATION

This is a decision on the petition, filed December 27, 2004 (certificate of mailing date December 23, 2004), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed October 26, 2004.

The application was filed on January 4, 2002. On October 26, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 85 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 85 be accorded a filing date of January 4, 2002 on the basis that the entire specification, including allegedly missing page 85, was received in the Patent and Trademark Office (PTO) on January 4, 2002.

In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 4, 2002 as the date of receipt. The postcard lists that the filing included, *inter alia*, 207 pages of specification. A review of the application file reveals that there are 206 pages present. Page 85 is missing.

The return postcard constitutes *prima facie* evidence that the entire 207 page specification, including missing page 85, was filed on January 4, 2002. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $130.00 petition fee will be credited to petitioners' deposit account, no. 18-1945.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 4, 2002**, using the copy of page 85 supplied with the petition.

Any inquiries pertaining to this matter 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

IVOR R. ELRIFI
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
and POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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MAY 06 2003

OFFICE OF PETITIONS

In re Application of :
Kekuda, et al. :
Application No. 10/037,417 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. 21402-235 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 20, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. An incomplete reply with a five (5) month extension of time was filed on September 20, 2002. Accordingly, the above-identified application became abandoned on September 21, 2002.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

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

DEC -8 2004

Paper No. 10

In re Application of :
Lee E. Cannon :
Application No. 10/037,446 : DECISION ON PETITION
Filed: January 2, 2002 :
Attorney Docket No. 29757/AG75/US :

This is a decision on the petition filed by facsimile transmission on July 6, 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 Office letter dated October 27, 200304. 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 filed a timely and proper reply to the Office letter in question. Petitioner supports this allegation by furnishing a copy of the reply and a copy of a postcard receipt for the reply, which shows that the reply was received in the Office on November 24, 2003, a date within the period set for filing a reply to the Office letter in question. Based upon the showing submitted by petitioner, it is clear this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Technology Center 3700 to enter the reply attached to the petition. The reply is entitled to a filing date of November 24, 2003. After entry of the reply, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED

E. Rollins-Cross, Director
Technology Center 3700

Jeremy R. Kriegel
Marshall, Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

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MAY 06 2004

Senninger, Powers, Leavitt & Roedel
One Metropolitan Square, 16th floor
St. Louis, MO 63102

Paper No. 15

In re Application of		: DECISION ON PETITION
Michael T. Morman et al		:
Serial No.	: 10/037,457	:
Filed	: December 31, 2001	:
For	: All Direction Stretchable Multiplayer Diaper	:

This is a decision on petitioner's request filed April 16, 2004, by which petitioner requests the waiver of the extension of time fee to respond to the Notice of Non-Compliant Amendment mailed December 23, 2003. Petitioner alleges that he did not receive the Office letter in question. Petitioner states that he became aware of the mailing of the Notice of Non-Compliant Amendment upon a routine status check of the PAIR system on March 30, 2004. Petitioner, on March 31, 2004 contacted the Examiner and obtained a courtesy copy of the Office action in question. The payment of extension of time fees is mandated by statute, 35 USC 41, and therefore, cannot be waived. The petition is being considered under 37 CFR 1.181, as a request to have the Office action of December 23, 2003 remailed due to non-receipt of the action. No petition fee is required.

Section 711.03(c) of the MPEP sets forth guidelines for establishing non-receipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing is acceptable under the circumstances in the instant application in which applicant becomes aware of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned. In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed April 16, 2004 includes all the above elements, establishing that the Office action of December 23, 2003 was not received and the request to have the Office action remailed is GRANTED. Under normal circumstances, the Office action in question would be remailed setting forth a new period for response. However, since concurrently with the petition, petitioner has filed a reply to the Office action of December 23, 2003, the Office action will not be remailed. Instead, 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 concurrently filed response.

Summary: Request to have Office action of December 23, 2003, remailed GRANTED. Actual remailing of Action not necessary in view of petitioner's receipt of courtesy copy on March 31, 2004 and filing of response thereto concurrently with instant petition.

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

ak/04/23/04

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

KEVIN A. BUFORD, ESQUIRE
HOLLAND & KNIGHT
1600 TYSONS BOULEVARD
SUITE 700
MCLEAN, VA 22102-4867

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JUN 27 2002

OFFICE OF PETITIONS

In re Application of :
Gene E. Myers :
Application No. 10/037,462 : DECISION GRANTING
Filed: October 30, 2001 : PETITION
Attorney Docket No. 061128.00004 :

This is a decision on the communication filed April 29, 2002, requesting that the above-identified application be accorded a filing date of October 30, 2001, rather than the presently accorded filing date of December 30, 2001. The paper 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 in Express Mail service on October 30, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided, inter alia, a copy of the Express Mail label, receipt No. EL867464342US, showing a Date-In of October 30, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter found in the present application. Applicant requests that the application be accorded a filing date of October 30, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on October 30, 2001.

The petition is granted.

Receipt is acknowledged of the statutory basic filing fee, formal drawings, and the declaration filed April 29, 2002, in response to the Notice mailed March 13, 2002.

The application is being returned to Initial Patent Examination Division for correction of the filing date to October 30, 2001.

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

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

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AUG 25 2006

OFFICE OF PETITIONS

HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

In re Application of :
Myers :
Application No. 10/037,462 : DECISION ON PETITION
Filed: October 30, 2001 : TO WITHDRAW
Attorney Docket No. 061128.00004 : 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 15, 2005.

The request is **APPROVED**.

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

The request was signed by Kevin A. Bulford on behalf of himself.

All attorneys/agents associated with this application remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed March 23, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOLLAND & KNIGHT LLP
2099 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20006

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Myers :
Application No. 10/037,462 :
Filed: October 30, 2001 :
Title: Method and Apparatus For Contemporaneous Billing and Documenting with Rendered Services

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to an Restriction Requirement mailed March 23, 2006. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 24, 2006. A Notice of Abandonment was mailed on October 10, 2006.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment and drawings submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Paper No. 12

Kolisch, Hartwell, Dickinson
McCormack & Heuser
Suite 200
520 S.W. Yamhill Street
Portland, OR 97204

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FEB 1 3 2004

OFFICE OF PETITIONS

In re Application of
Christopher B. McKay, et. al.
Application No. 10/037,471
Filed: December 21, 2001
Attorney Docket No. MCW 306

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2003 and supplemented by facsimile transmission on November 25, 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 (Notice) mailed January 8, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 8, 2003.

In response to the Notice to File Missing Parts, petitioner submitted with the instant petition $665 for the petition to revive fee, $740 for four (4) months extension of time, oath/declaration, $385 for the small entity basic filing fee, $65 for the late filing of the oath/declaration, and $387 for claim fees.

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

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 $740 extension of time submitted with the petition on October 14, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

A courtesy copy of the decision is being mailed to petitioner at the address listed on the instant petition.

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

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

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

CC: Christopher B. McKay
P.O. Box S-3551
Carmel, CA 93921-0589

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: _____

2 Serial/Patent # 10037041

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	8	10/14/03	$ 740
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 740

8 TO BE REFUNDED BY:

X Treasury Check

Credit Deposit A/C #:

9 1 1 -- 1 5 4 0

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

E.O.T. filed outside six(6) months Statutory Pd. for reply.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Andrea Smith TITLE: Pets. Exmr.

SIGNATURE: AMSmith PHONE: 703/308-6711

OFFICE: Off. Of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Wanda Kelly DATE: 2/13/04

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

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

FORM PTO 1577
(01/90)

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Paper No. 21

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OCT 2 8 2003

OFFICE OF PETITIONS

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

In re Application of
Chiyoshi Sasaki et al
Application No. 10/037,481
Filed: October 24, 2001
Attorney Docket No. SCET 19.098
(100809-00050)

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

This is a decision on the petition, filed October 27, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 3, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2835 for processing of the request for continued examination under 37 CFR 1.114.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

Date : October 28, 2003

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 10/037,481**

Applicant(s) : Chiyoshi Sasaki et al
Application No. : 10/037,481
Filed : October 24, 2001

The above-identified application has been assigned Patent No. 6,643,138 and an issue date of November 4, 2003.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of November 4, 2003:

"All reference to Patent No. 6,643,138 to Chiyoshi Sasaki et al of Japan for CIRCUIT SUBSTRATE UNIT AND ELECTRONIC EQUIPMENT appearing in the Official Gazette of November 4, 2003 should be deleted since no patent was granted."

Frances Hicks

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910

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NIXON VANDERHYE P.C.
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VA 22201

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of :
Bach Corneliussen :
Application No. 10/037,487 :
Filed: January 4, 2002 : ON PETITION
Attorney Docket No. 3842-12 :

This is a decision on the Request for Corrected Filing Receipt, filed March 29, 2005. The Request for Corrected Filing Receipt is properly treated as a petition under 37 CFR 1.53 to accord a filing date of January 4, 2002, to the application.

The application was filed on January 4, 2002. On April, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, wherein the filing date accorded the application was January 8, 2002.

Petitioner files the instant Petition to Correct [the] Filing Date of the application to January 4, 2002. In support of the petition, Applicant files a copy of his return-receipt postcard.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 17 pages of specification, claims, and abstract; 14 claims, and 6 sheets of drawings in the above-identified application by this on January 4, 2002.

"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." MPEP § 503.

Accordingly, the petition is granted.

No fee has been charged and none is due.

The application will be referred to the Office of Initial Patent Examination for correction of the filing date to January 4, 2002.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/037,487	01/04/2002	2155	1122	3842-12	6	14	6

CONFIRMATION NO. 5226

23117
NIXON & VANDERHYE, PC
1100 N GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

CORRECTED FILING RECEIPT

OC000000015993532

Date Mailed: 05/12/2005

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)

Knut Snorre Bach Corneliussen, Oslo, NORWAY;

Power of Attorney: The patent practitioners associated with Customer Number **24214**.

Domestic Priority data as claimed by applicant

Foreign Applications

NORWAY 2001 0069 01/05/2001

If Required, Foreign Filing License Granted: 01/31/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/037,487

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-user applications in multimedia networks

Preliminary Class

709

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

GRANTED

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

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

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

NOT GRANTED

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

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DEC 02 2004

OFFICE OF PETITIONS

In re Application of
Gary O'Connor
Patent : 6,811,325
Application No. 10/037,507
Filed: January 4, 2002
Issued: November 2, 2004
Attorney Docket Number: 7385-82593

: NOTICE

This is a notice regarding your request filed on November 12, 2004, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

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

The change in status to a large entity has been entered and made of record.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 5

Robert Moll
1173 St. Charles Court
Los Altos CA 94024

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OFFICE OF PETITIONS

In re Application of
Norman Ken Ouchi
Application No. 10/037,544
Filed: December 21, 2001
Attorney Docket No. Solectron 713
For: SYSTEMS AND METHODS FOR ORGANIZING AND VALIDATING DATA IN DOCUMENTS

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed May 20, 2002 (certificate of mailing date May 6, 2002).

The petition is granted.

Petitioner has shown that the non-signing inventor, Norman Ken Ouchi, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Attorney Robert Aeschliman establishes that Mr. Ouchi stated that he would throw away any application sent to him. The statement of facts of Attorney Robert Moll establishes that the Mr. Ouchi was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Solectron Corporation has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Solectron. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

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

Robert Moll
1173 St. Charles Court
Los Altos CA 94024

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Norman Ken Ouchi :
Application No.10/037,545 :
Filed: December 21, 2001 : DECISION
Attorney Docket Number: Solectron 721 :
Title: WORKFLOW SYSTEMS AND :
METHODS FOR PROJECT MANAGEMENT :
AND INFORMATION MANAGEMENT

This is in response to the petition under 37 CFR 1.47(b), filed December 21, 2001.

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

The petition fee will not be refunded because the petition was filed in response to the Notice to File Missing Parts mailed on February 11, 2002. If petitioner had not filed the petition under 37 CFR 1.47 and in the absence of the submission of a timely executed declaration the application would have been held abandoned.

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

Telephone inquiries related to this decision may be directed to 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

LAW OFFICE OF MARK J. SPOLYAR
38 FOUNTAIN STREET
SAN FRANCISCO, CA 94114

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
PRUITT, Ronald Earl :
Application No. 10/037,563 : DECISION ON PETITION
Filed: December 21, 2001 : TO WITHDRAW
Attorney Docket No. **6476/53629** : 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 04, 2008.

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

A review of the file record indicates that the power of attorney to the Law Office of Mark J. Spolyar has been revoked by the assignee of the patent application on February 01, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **GOODWIN PROCTER LLP**
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON, MA 02109-2881

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.
10/037,569	11/09/2001	Curtis H. Hubmann	CM-153	6522

24804 7590 12/21/2005

S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

EXAMINER	
KAUFMAN, JOSEPH A	

ART UNIT	PAPER NUMBER
3754	

DATE MAILED: 12/21/2005

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.go

In re Patent No. HUBMANN ET AL. :
Issue Date: August 10, 2004 : **DECISION DISMISSING**
Appl No.: 10/037,569 : **PETITION**
Filed: November 09, 2001 : *37 CFR 1.324*
For: **NON-REMOVABLE DEVICE FOR ATTACHING** :
A DISPENSER TO A CONTAINER :

This is a decision on the petition under 37 CFR 1.48, filed June 22, 2004. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

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

Michael Mar
Supervisory Patent Examiner
Art Unit 3754
Patent Examining Group 3700

S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

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

JOHN C. MORAN, ATTORNEY, P.C.
4120 E. 115TH PLACE
THORNTON, CO 80233

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/037,584
Filed: October 23, 2001
Attorney Docket No. 401052-B-01-US (Brown)

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed on May 13, 2002 (Certificate of Mailing date May 2, 2002), requesting that 4 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventor who allegedly refuses to join in this application.

The petition is **GRANTED.**

There are 5 inventors named for the claimed invention in this application: Michael Kenneth Brown ("Brown"), Norman C. Chan ("Chan"), Sharmistha Sarkar Das ("Das"), David Joseph Skiba ("Skiba"), and Danny M. Wages ("Wages"). The application as filed on October 23, 2001 did not include a properly signed oath/declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. On February 4, 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 1-month extension of time and the requisite extension-of-time fee, asserting that Brown has refused to join in this application, and requesting that a "Declaration and Power of Attorney" signed by all inventors but Brown ("5/13/02 Declaration") be accepted such that the 4 signing inventors may make this application on behalf of themselves as well as Brown.

Chan, Das, Skiba and Wages may file this application on behalf of themselves and of Brown, provided that a *bona fide* attempt has been made to present to Brown, for signature, a copy of the entire application, including the specification, claims, drawings;[1] and that the latter refuses to join in this application. To show that Brown has refused to join in this application despite a *bona fide* attempt made to present to 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 Brown at his last known address,[2] and his subsequent refusal.[3]

The instant petition encloses a Statement of Facts by John C. Moran ("Moran") ("Moran Statement"), counsel for Avaya Inc. which is apparently Brown's former employer, accompanied by Exhibits A-D, setting forth in essence that a copy of the entire application was provided to

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1 MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN.

2 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

3 See MPEP section 409.03(d) (Aug. 2001).

Brown via e-mail on February 28, 2002[4] and again by mail on April 6, 2002,[5] and that Brown indicated his refusal to join in the application in an April 24, 2002 e-mail reply to Moran's April 17, 2002 e-mail[6] and subsequent telephone inquiry[7] concerning this application, and again by telephone during Moran's April 24, 2002 telephone follow-up.[8]

The Moran Statement in conjunction with the accompanying exhibits demonstrates that a *bona fide* attempt had been made to present to Brown a copy of the entire application,[9] and that Brown has refused to join in this application. The petition is thus granted and the 5/13/02 Declaration is hereby accepted.

The Office also acknowledges receipt with the instant petition of the $130 surcharge for late filing of an acceptable oath/declaration and the $130 petition fee. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Brown at 285 Lewis Street, North Plainfield, NJ 07060. Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, as requested, the correspondence address for this application has been changed and made of record.

The application is being returned to OIPE for further processing with respect to the 5/13/02 Declaration and for mailing of a filing receipt if one has not already been issued. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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

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[4] Page 2 of petition, Moran Statement, lines 8-10.

[5] Page 2 of petition, Moran Statement, lines 9-10 from bottom.

[6] Page 2 of petition, Moran Statement, lines 5-8 from bottom.

[7] Exhibit D (printout of Brown's 8/24/02 e-mail), 1st line.

[8] Page 2 of petition, Moran Statement, last 5 lines; Exhibit D.

[9] The Office interprets the 2/28/02 e-mail and the 4/6/02 letter as stating that an **entire** copy of the application, including specification, claims, drawings, was provided to Brown for review before deciding whether to join in. If this interpretation is incorrect, counsel **must** notify this Office upon receipt of this Decision.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Kenneth Brown
285 Lewis Street
North Plainfield, NJ 07060

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AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/037,584
Filed: October 23, 2001
For: A UNIFIED CALL CLASSIFIER FOR PROCESSING SPEECH AND TONES AS A SINGLE INFORMATION STREAM

: LETTER

Dear Mr. Brown,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter 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

cc: John C. Moran, Esq.
4120 E. 115th Place
Thornton, CO 80233
Attorney Docket No. 401052-B-01-US (Brown)

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

JOHN C. MORAN, ATTORNEY, P.C.
4120 E. 115TH PLACE
THORNTON, CO 80233

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/037,588
Filed: October 23, 2001
Attorney Docket No. 401052-A-01-US (Brown)

: DECISION ACCORDING
: STATUS UNDER
: 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed on May 13, 2002 (Certificate of Mailing date May 2, 2002), requesting that 4 joint-inventors be allowed to file the application on behalf of themselves and the remaining joint-inventor who allegedly refuses to join in this application.

The petition is **GRANTED.**

There are 5 inventors named for the claimed invention in this application: Michael Kenneth Brown ("Brown"), Norman C. Chan ("Chan"), Sharmistha Sarkar Das ("Das"), David Joseph Skiba ("Skiba"), and Danny M. Wages ("Wages"). The application as filed on October 23, 2001 did not include a properly signed oath/declaration as required by 37 CFR 1.51(b)(2) and as specified in 37 CFR 1.63. On February 5, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("2/5/02 Notice"), giving Applicants an extendable 2-month period within which to submit, *inter alia*,[1] a proper oath/declaration. In response, the instant petition was filed along with a request for a 1-month extension of time and the requisite extension-of-time fee, asserting that Brown has refused to join in this application, and requesting that a "Declaration and Power of Attorney" signed by all inventors but Brown ("5/13/02 Declaration") be accepted such that the 4 signing inventors may make this application on behalf of themselves as well as Brown.

Chan, Das, Skiba and Wages may file this application on behalf of themselves and of Brown, provided that a *bona fide* attempt has been made to present to Brown, for signature, a copy of the entire application, including the specification, claims, drawings;[2] and that the latter refuses to join in this application. To show that Brown has refused to join in this application despite a *bona fide* attempt made to present to 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 Brown at his last known address,[3] and his subsequent refusal.[4]

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1 The other missing items are: the application basic filing fee and the extra claims fees.

2 MPEP section 409.03(d) (Aug. 2001) REFUSAL TO JOIN.

3 37 CFR 1.47(a); also see MPEP section 409.03(e) (Aug. 2001).

4 See MPEP section 409.03(d) (Aug. 2001).

The instant petition encloses a Statement of Facts by John C. Moran ("Moran") ("Moran Statement"), counsel for Avaya Inc., apparently Brown's former employer, accompanied by Exhibits A-D, setting forth in essence that a copy of the entire application was provided to Brown via e-mail on February 28, 2002[5] and again by mail on April 6, 2002,[6] and that Brown indicated his refusal to join in the application in an April 24, 2002 e-mail reply to Moran's April 17, 2002 e-mail[7] and subsequent telephone inquiry[8] concerning this application, and again by telephone during Moran's April 24, 2002 telephone follow-up.[9]

The Moran Statement in conjunction with the accompanying exhibits demonstrates that a *bona fide* attempt had been made to present to Brown a copy of the entire application,[10] and that Brown has refused to join in this application. The petition is thus granted and the 5/13/02 Declaration is hereby accepted.

The Office also acknowledges receipt with the instant petition of the $740 basic filing fee for this application, the $84 for 1 independent claim in excess of 3, the $198 for 11 total claims in excess of 20, all as response to the 2/5/02 Notice; as well as the $130 surcharge for late filing of an acceptable oath/declaration and the $130 petition fee. The application is now complete.

As provided in 37 CFR 1.47(c), the Office will forward notice of the filing of this application to Brown at 285 Lewis Street, North Plainfield, NJ 07060.

Notice of the filing of this application will also be published in the *Official Gazette*.

Finally, as requested, the correspondence address for this application has been changed and made of record.

The application file is being returned to OIPE for further processing with respect to the 5/13/02 Declaration and for mailing of a filing receipt if one has not already been issued. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

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[5] Page 2 of petition, Moran Statement, lines 8-10.

[6] Page 2 of petition, Moran Statement, lines 9-10 from bottom.

[7] Page 2 of petition, Moran Statement, lines 5-8 from bottom.

[8] Exhibit D (printout of Brown's 8/24/02 e-mail), 1st line.

[9] Page 2 of petition, Moran Statement, last 5 lines; Exhibit D (printout of Brown's 8/24/02 e-mail).

[10] The Office interprets the 2/28/02 e-mail and the 4/6/02 letter as stating that an **entire** copy of the application, including specification, claims, drawings, was provided to Brown for review before deciding whether to join in. If this interpretation is incorrect, counsel **must** notify this Office upon receipt of this Decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Michael Kenneth Brown
285 Lewis Street
North Plainfield, NJ 07060

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AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Brown et al.
Application No. 10/037,588
Filed: October 23, 2001
For: A UNIFIED CALL CLASSIFIER FOR PROCESSING SPEECH AND TONES AS A SINGLE INFORMATION STREAM

: LETTER

Dear Mr. Brown,

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 for the United States Patent and Trademark Office [USPTO]). 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 pursuant to 37 CFR 1.19), or make your position of record in the application. Alternatively, you may do any of the aforementioned through an attorney or agent registered to practice before the USPTO and presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding this application should be directed to the File Information Unit at (703) 308-2733. For information on how to order a copy of the application or a specific paper in the application, contact the Certification Division at (703) 308-9726 or 1-(800) 972-6382 (outside the Washington DC area). Telephone inquiries regarding this letter 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

cc: John C. Moran, Esq.
4120 E. 115th Place
Thornton, CO 80233
Attorney Docket No. 401052-A-01-US (Brown)

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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DW 06-02

Paper No. 5

MARY JO BERTANI
SKJERVEN MORRILL MACPHERSON LLP
SUITE 700
25 METRO DRIVE
SAN JOSE CA 95110-1349

COPY MAILED

JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of :
Kulig et al. :
Application No. 10/037,593 : DECISION GRANTING PETITION
Filed: 19 October, 2001 :
Atty's Docket No. M-11742 US :

This is a decision on the petition filed on 29 March, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figure 4d, be accorded a filing date of 19 October, 2001.

On 19 October, 2001, the application was filed.

On 7 February, 2002, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers stating, *inter alia*, that the application had been accorded a filing date of 19 October, 2001, but that Figure 4d described in the specification appeared to have been omitted from the application.

In response, on 29 March, 2002, one (1) sheet of drawings containing Figure 4d was supplied. Additionally the present petition and a petition fee were filed on 29 March, 2002. Petitioners argue that one (1) sheet of drawings containing Figure 4d was among the application papers filed on 19 October, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 19 October, 2001 and reflects the above-identified application number, and identifies the application by title, the full names of the joint inventors, and attorney docket number, and itemizes the filing of, *inter alia*, 33 sheets of drawings. Petitioners request that the application, including one (1) sheet of drawings containing Figure 4d described in the specification, be accorded a filing date of 19 October, 2001.

A review of the record reveals that 32 sheets of drawings, containing Figures 1a-g, 2a-b, 3a-b, 4a-c, 4e-I, 5a-e, 6a-b, 7,

8a-e, and 9-11 are located among the application papers received on 19 October, 2001. However, the evidence is convincing that the application papers deposited on 19 October, 2001, included one (1) sheet of drawings containing Figure 4d which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 4d, is entitled to a filing date of 19 October, 2001.

The "Notice" mailed on 7 February, 2002, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to counsel's deposit account, No. 19-2386.

The application will be processed and examined using 32 sheets of drawings present on filing on 19 October, 2001, and the one (1) sheet of drawings containing Figure 4d supplied on 29 March, 2002.

Receipt of the substitute drawings filed on 29 March, 2002, is acknowledged.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 19 October, 2001, using the 32 sheets of drawings containing Figures 1a-g, 2a-b, 3a-b, 4a-c, 4e-I, 5a-e, 6a-b, 7, 8a-e, and 9-11 filed with the application papers received on 19 October, 2001, and the one (1) sheet of drawings containing Figure 4d supplied on 29 March, 2002, and for an indication in Office records that 33 sheets of drawings were present on filing.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAILED

DEC 1 9 2002

Technology Center 2100

Paper No. 6

Heller Ehrman White & McAuliffe LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, California 92122

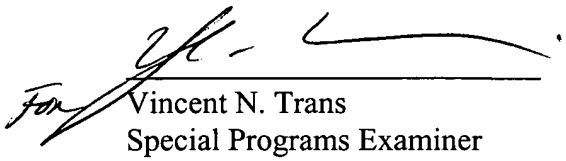
In re Application of: Herman Fischer)
Application No. 10/037,618)
Filed: January 2, 2002) **DECISION ON REQUEST FOR**
For: MAPPING AND CACHING OF) **WITHDRAWAL AS ATTORNEY**
UNIFORM RESOURCE LOCATORS)
FOR SURROGATE WEB SERVER)

This is a decision on the Request To Withdraw from Representation filed November 25, 2002.

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

The request is **GRANTED**.

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



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

cc: MobileWebSurf.com, Inc.
42808 Christy Street, Suite 100
Fremont, CA 94538

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JUL 05 2006

PATENT
Docket No. 72425.0105

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	J. Blake Scott	Grp./A.U.: 1755
Appl. No.:	10/037,630	Examiner: Paul D. Marcantoni
Filed:	01/03/02	
Title.	INCORPORATION OF DRILLING CUTTINGS INTO STABLE LOAD-BEARING STRUCTURES	

CERTIFICATE OF FACSIMILE TRANSMITTAL

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office at 571-273-8300.

July 5, 2006
Date

John E Drach
Signature of Certifier

John E. Drach
Typed or printed name of certifier

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

PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(c)(1)

It is respectfully requested that the above-identified application be awarded special status and advanced out of turn for examination pursuant to 37 CFR § 1.102(c)(1). In support of this request, a statement by Bill R. Scott, one of the co-inventors of the instant application, that he is 72 years of age is submitted herewith. Applicant believes that no fees are due for this petition under 37 CFR § 1.102(o). However, should any fees be due for entry and consideration of this Petition that have not been accounted for, the Commissioner is authorized to charge them to Deposit Account No.04-1406.

PAGE 2/4 * RCVD AT 7/5/2006 5:08:47 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/6 * DNIS:2738300 * CSID:6098848710 * DURA

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
SEP 19 2006

SPE: T. Meeks

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/16/07

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/032,673 Patent No.: 6759090

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: _____

TIMOTHY MEEKS
SUPERVISORY PATENT EXAMINER

_____ **SPE**

1762 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bradley N. Ruben, PC
463 First Street, Suite 5A
Hoboken, NJ 07030-1859

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of:
KIRCANSKI, Zlatomir
Application No.: 10/037,691
Filing Date: November 09, 2001
Attorney's Docket No.: 0499-033
For: HIGH TEMPERATURE RESISTANT MATERIAL

DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2005 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed December 06, 2004, which set a shortened statutory period for reply of one (1) month. A response was not filed and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 07, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed December 06, 2004; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of December 06, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Attorney-Advisor, Anthony Smith at (571) 272-3298 or in his absence, the undersigned at (571) 272-3217.

The application is being referred back to GAU 1764 further processing.

Frances Hicks for
Brian Hearn
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

Michael S. Brodbine
Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1351

In re Application of :
Krohn et al. :
Application No. 10/037,697 :
Filed: November 9, 2001 :
Attorney Docket Number: :
KRO 0128 PUS :

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MAY 11 2005

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed March 10, 2005, requesting a previously filed terminal disclaimer be withdrawn, and the terminal disclaimer filed with the petition on March 10, 2005 be accepted.

Petitioner asserts that the terminal disclaimer filed September 27, 2004, contains an incomplete reference and requests withdrawal of the terminal disclaimer. Applicant requests correction and/or substitution of the September 27, 2004 terminal disclaimer with the terminal disclaimer filed with the instant petition.

The petition is granted.

The petition fee, $400.00, and the fee for filing a terminal disclaimer have been charged to Applicant's deposit account as authorized in the instant petition.

This application is being referred to Technology Center AU 1711 for correction of PALM and file records consistent with this decision.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Richard M. Weiss, Joseph H. Butler, :
Michael J. Twigg, F. Sherrill : DECISION REFUSING STATUS
Vowell and Larry R. Palmer : UNDER 37 CFR 1.47(a)
Application No. 10/037,701 :
Filed: November 9, 2001
For: METHOD AND APPARATUS FOR MEASURING AND ORIENTING GOLF CLUB SHAFT

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 18, 2002, regarding non-signing inventor **Michael J. Twigg**. The petition was recently forwarded to this office for review.

The petition is dismissed.

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

The above-identified application was filed on November 9, 2001 without an executed oath or declaration and naming Richard M. Weiss, Joseph H. Butler, **Michael J. Twigg**, F. Sherrill Vowell and Larry R. Palmer as joint inventors.

Accordingly, on March 22, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on September 18, 2002, the instant petition and a four (4) month extension of time were filed.

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), (2) and (4), as set forth above.

As to item (1), applicant appears to demonstrate that a bona fide attempt was made to present non-signing inventor **Michael J. Twigg** (via Mr. Twigg's attorney, H. Leo Beale) with only the Declaration and Power of Attorney and Assignment. However, applicant has not demonstrated that a bona fide attempt has been made to present non-signing inventor **Michael J. Twigg** with a copy of the application papers (specification, claims and drawings). Unless non-signing inventor **Michael J. Twigg** was presented with a copy of the application papers (specification, claims and drawings), non-signing inventor **Michael J. Twigg** could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP, Section 409.03(d). Petitioner should show that a copy of the application papers was presented (or a bona fide attempt made to present) to the non-signing inventor, but that the non-signing did not respond to, or refused, the request that he sign the oath/declaration in order to show that the non-signing inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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 signature blocks of the non-signing inventors have

been executed by inventor Richard M. Weiss. However, the signature blocks of the non-signing inventors must be executed by all of the signing joint-inventors, or left blank. See MPEP 409.03(a).

As to item (4), a statement of the inventor's last known address is missing and is required. See MPEP 409.03(e).

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

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

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)306-9200.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Richard M. Weiss, **Joseph H. Butler**, :
Michael J. Twigg, F. Sherrill : DECISION REFUSING STATUS
Vowell and Larry R. Palmer : UNDER 37 CFR 1.47(a)
Application No. 10/037,701 :
Filed: November 9, 2001
For: METHOD AND APPARATUS FOR MEASURING AND ORIENTING GOLF CLUB SHAFT

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 18, 2002, regarding non-signing inventor **Joseph H. Butler**. The petition was recently forwarded to this office for review.

The petition is dismissed.

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

The above-identified application was filed on November 9, 2001 without an executed oath or declaration and naming Richard M. Weiss, **Joseph H. Butler**, Michael J. Twigg, F. Sherrill Vowell and Larry R. Palmer as joint inventors.

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> (3) the petition fee; and
>
> (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), (2) and (4), as set forth above.

As to item (1), applicant appears to demonstrate that a bona fide attempt was made to present non-signing inventor **Joseph H. Butler** (via Mr. Butler's attorney, H. Leo Beale) with only the Declaration and Power of Attorney and Assignment. However, applicant has not demonstrated that a bona fide attempt has been made to present non-signing inventor **Joseph H. Butler** with a copy of the application papers (specification, claims and drawings). Unless non-signing inventor **Joseph H. Butler** was presented with a copy of the application papers (specification, claims and drawings), non-signing inventor **Joseph H. Butler** could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP, Section 409.03(d). Petitioner should show that a copy of the application papers was presented (or a bona fide attempt made to present) to the non-signing inventor, but that the non-signing did not respond to, or refused, the request that he sign the oath/declaration in order to show that the non-signing inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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

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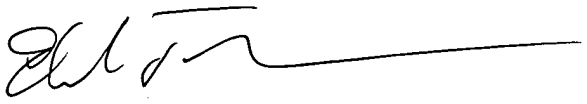
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)306-9200.



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

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AUG 25 2004

OFFICE OF PETITIONS

In re Application of
Richard M. Weiss, Joseph H. Butler, Michael J. Twigg, F. Sherrill Vowell and Larry R. Palmer
Application No. 10/037,701
Filed: November 9, 2001
For: METHOD AND APPARATUS FOR MEASURING AND ORIENTING GOLF CLUB SHAFT

: PETITION UNDER 37 CFR 1.47(b)
: DISMISSED AND DECISION NOTING
: JOINDER OF INVENTORS

This is in response to the "Submission Of Executed Declaration," filed May 24, 2004.

Petitioner has submitted a Declaration executed by the previously non-signing inventors Joseph H. Butler and Michael J. Twigg in compliance with 37 CFR 1.63. Therefore, in view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not required and the petition is dismissed as moot. This application does not require Rule 1.47(a) status, and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The file is being forwarded to Technology Center 2800 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Edward Tannouse at (703)306-9200.

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

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ADMINISTRATION
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FORT COLLINS CO 80527-2400

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JUN 12 2008

In re Application of :
Sesek :
Application No. 10/037,744 : DECISION
Filed: 9 November, 2001 :
Attorney Docket No. 10012542-1 :

This is a decision on the petition, filed on 10 January, 2008 (supplemented thereafter on or about 2 June, 2008), considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

As to the Request to Withdraw
the Holding of Abandonment

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

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt

acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

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

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to Restriction Requirement (copy enclosed herewith) mailed on 6 April, 2007, with a reply due absent extension of time on or before 6 May, 2007.

The application went abandoned after midnight 6 May, 2007.

The Office mailed the Notice of Abandonment on 23 October, 2007.

On 10 January, 2008, Petitioner filed the instant petition (supplemented thereafter on or about 2 June, 2008), requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181 averring non-receipt supported with copies of the application docket sheet and the due-date docket records, along with the averment by Petitioner that the papers were not found after proper search, in compliance with the guidance set forth in the Commentary at MPEP §711.03(c)(I)(A) and (B).

(It is noted that the instant petition was not filed within the two month period—that ended on Sunday, 23 December, 2007, with reply due on or before Wednesday, 26 December, 2007. The petition was filed fifteen days later. It also is noted that the file reflects that the Restriction Requirement was returned to the Office on 9 April, 2007, as undelivered.)

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

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

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

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

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

---

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

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

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

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

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

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

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

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

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

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

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

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

complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, and the 23 October, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 3694 for further processing—to include the re-mailing of the Restriction Requirement—in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this

---

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

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

decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,744	11/09/2001	Robert Sesek	10012542-1	7359

7590 04/06/2007

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

EXAMINER	
GREENE, DANIEL LAWSON	
ART UNIT	PAPER NUMBER
3694	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
31 DAYS	04/06/2007	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/037,744	SESEK, ROBERT	
	Examiner	Art Unit	
	Daniel L. Greene Jr.	3694	

-- 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 1 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 *19 November 2001*.

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) *1-42* 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) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-42* 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/SB/08) Paper No(s)/Mail Date 5/8/2007
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

1a. The embodiment of Figure 4 [0019]

1b. The embodiment of Figure 6 [0027]

1c. The embodiment of Figure 7 [0030]

The species are independent or distinct because in species 1a a server delivers and a client retrieves print content using electronic mail, in 1b the client automatically retrieves print content from a server and in species 1c a server delivers print content directly to a printer without regard of a client.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear generic.

2. **Upon election of one of species 1a-1c above Applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species** for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. (Currently, no claims appear generic.)

2a. The embodiment wherein the act of providing compensation content comprises providing electronic data representing a negotiable instrument to be printed as set forth in, for example, claim 3.

2b. The embodiment wherein the act of providing compensation content comprises providing electronic data representing a coupon to be printed as set forth in, for example, claim 4.

2c. The embodiment wherein the act of providing compensation content comprises providing electronic data instructing payment to a specified account as set forth in, for example, claim 5.

3. **Upon election of one of species 2a-2c above Applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species** for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. (Currently, no claims appear generic.)

3a. The embodiment wherein the act of calculating a compensation value comprises calculating a compensation value based upon the number of sheets required to produce the print content as set forth in, for example, claim 7.

3b. The embodiment, wherein the act of calculating comprises calculating the compensation value based upon the number of sheets actually used to produce the print content as set forth in, for example, claim 8.

4. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement (e.g. Applicant elects species 1a, 2b and 3a), and a listing of all claims readable thereon, (e.g. The claims that

read on the elected invention are 1-3, 6, 7, 9-20 and 22 (please not, these claims may/do not actually read on the invention set forth in the example above) including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

7. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

8. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. 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). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DIG
2007-03-22

MARY D. CHEUNG
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
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Paper No. 8

KIMBERLY C. DILIBERTI
ALLEGIANCE CORPORATION
1430 WAUKEGAN ROAD
MCGAW PARK, IL 60085

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FEB 10 2004

OFFICE OF PETITIONS

In re Application of :
John A. Krueger :
Application No. 10/037,795 : ON PETITION
Filed: January 3, 2002 :
Attorney Docket No. SPEC - 6137 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 6, 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 April 8, 2002.

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

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

Retta Williams

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

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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES, CA 90045

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MAR 1 3 2006

OFFICE OF PETITIONS

In re Patent No. 6,963,748 :
Issued: November 8, 2005 :
Application No. 10/037,805 : PATENT TERM ADJUSTMENT
Filed: December 26, 2001 :
Atty. Dkt. No.: 30566.201-US-01 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705," filed January 9, 2006. This matter is being treated under 37 CFR 1.705(d) as a timely filed application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,963,748 on November 8, 2005. The instant request for reconsideration was timely filed January 9, 2006 in accordance with 37 C.F.R. § 1.705(d). The patent issued with a PTA of 347 days. Applicants argue that the adjustment of 563 days should have been reduced a total of 140 days rather than 216 days.

A review of the application history reveals that an adjustment of 563 days can be attributed to the Office. In accordance with 37 C.F.R. § 1.702(a)(1), an adjustment of 547 days can be attributed to the Office. The adjustment began February 27, 2003, the day after the date that is 14 months after the date that the application was filed, and ended August 26, 2004, the date the non-final Office action was mailed. *See* 37 C.F.R. § 1.703(a)(1).

A further adjustment of 16 days can be attributed to the Office in accordance with 37 C.F.R. § 1.702(a)(4). The adjustment began October 24, 2005, the day after the date that is four months after the date that the issue fee payment was received, and ended November 8, 2005, the date the patent issued. *See* 37 C.F.R. § 1.703(a)(6).

In accordance with 37 C.F.R. § 1.704(c)(10)(ii), the adjustment of 563 days can be reduced the lesser period of 120 days for the the Rule 312 amendment filed April 7, 2005.

In accordance with 37 CFR 1.704(c)(10)(ii), the adjustment of 563 days is further reduced 20 days, from September 1, 2005, the date the foreign priority papers were filed, to September 21, 2005, the date the Office action in response was mailed.

A review of the record confirms that no drawings were filed on June 23, 2005. The reduction of 70 days is removed.

Accordingly, at the time of issuance, the patent was entitled to an overall adjustment of 423 days.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 423 days.

The required application fee of $200.00 has been charged to Deposit Account No. 50-0494 as authorized in the instant application for PTA.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,963,748 B2
DATED	:	November 8, 2005
INVENTOR(S)	:	Chithambaram, 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 347 days

Delete the phrase "by 347 days" and insert – by 423 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	6,963,748 B2
DATED	:	November 8, 2005
INVENTOR(S)	:	Chithambaram, 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 347 days

Delete the phrase "by 347 days" and insert – by 374 days--

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November 6, 2003

Robert J. Schaap
21241 Ventura Blvd., Suite 188
Woodland Hills, CA 91364-2109

In re application of:
Brian Jones DECISION ON PETITION
Serial No.: 10/037,814
Filed: December 28, 2001
For: COMPOSITE REINFORCED ELECTRICAL
TRANSMISSION CONDUCTOR

This is a decision on the petition received on June 24, 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 Nonprovisional Application was mailed February 4, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 5, 2002.

On June 24, 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 of Nonprovisional Application mailed on February 4, 2002.

The petition is hereby GRANTED.

The declaration received on June 24, 2003, will be used to complete the above application for release to Technology Center 2831.

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

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

Doshie E. Day
Program Management Assistant
Office initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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November 6, 2003

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In re application of:
Brian Jones DECISION ON PETITION
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Doshie E. Day
Program Management Assistant
Office initial Patent Examination

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Dean A. Seifert	: DECISION ON REQUEST FOR
Patent Number	: 7617157	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/037,827	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HENRY W. CUMMINGS
3313 W. ADAMS ST.
ST. CHARLES MO 63301

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JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Thomas E. Lenkman :
Application No. 10/037,841 : DECISION GRANTING PETITION
Filed: January 7, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. TEM-20 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 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 October 7, 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 3618.

Karen Creasy

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

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GRACE J. FISHEL
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SUITE 202
ST. LOUIS, MO 63146

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Lenkman : DECISION ON PETITION
Application No. 10/037,841 :
Filed: January 7, 2002 :
Docket No.: TEM-20 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned February 3, 2006 for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee(s) Due ("Notice") mailed November 2, 2005. The Notice set a three month statutory period for reply. Notice of Abandonment was mailed March 29, 2006.

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

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

The requested change of correspondence address has been entered into the record.

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

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SHAW PITTMAN
1650 TYSONS BLVD
MCLEAN VA 22102

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MAR 11 2005

OFFICE OF PETITIONS

In re Application of :
Hong-Da Liu :
Application No. 10/037,847 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. 64,600-078 :

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

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The 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 May 4, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on August 5, 2004.

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

This matter is being referred to Patent Publication.

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

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United States Patent and Trademark Office
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Paper No. 103105

Douglas P. Mueller
MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

In re Application of:	:	
Yamagata ET AL.	:	PETITION FOR CORRECTION OF
Serial No.: 10/037,866	:	INVENTORSHIP
Filed: October 24, 2001	:	UNDER 37 CFR § 1.48(b)
Attorney Docket No.: 10873.326USD1	:	

This is a decision on the petition filed November 21, 2004 to correct inventorship under 37 CFR 1.48(b).

The petition is granted.

In view of the papers filed November 21, 2004, the inventorship of this nonprovisional application has been changed by the deletion of:

Kazutake BOKU
Shusuke ONO.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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COMMISSIONER FOR PATENTS
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Paper No. 7

ROBERT E. KREBS
THELEN REID & PRIEST
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Richard W.D. Booth et al :
Application No. 10/037,870 : ON PETITION
Filed: October 22, 2001 :
Attorney Docket No. 034942-000258 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed March 15, 2002. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 16, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

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

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

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COMMISSIONER FOR PATENTS
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SENSATA TECHNOLOGIES, INC.
529 PLEASANT STREET, MS B-1
ATTLEBORO, MA 02703

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JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Ichiro Masaki, et. al. :
Application No. 10/037,885 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. 16820.P354 :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 18, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed May 11, 2006. A Notice of Abandonment was mailed on April 17, 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 election and amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, 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.

This application file is being referred to Technology Center Art Unit 2622, 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

cc: Matthew E. Connors
Gauthier & Connors
225 Franklin Street – Suite 3300
Boston, MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Shikhman et al.	:	DECISION ON PETITION TO
Application No. 10/037,899	:	WITHDRAW HOLDING OF
Filed: 22 October, 2001	:	ABANDONMENT
For: CRIMPING AND CUTTING DEVICE	:	

This is a decision on the petition filed on 3 March, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on 24 January, 2006, stating that the application was abandoned for failure to timely respond to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed on 31 October, 2005.

On 3 March, 2006 (certificate of mailing date 28 February, 2006), petitioners filed a corrected Appeal Brief and three (3) month extension of time, along with the present petition. Petitioners assert that, contrary to the statement set forth in the Notice of Abandonment, the reply period set in the Notification mailed on 31 October, 2005, was extendable in accordance with 37 CFR 1.136. Petitioners aver that since a timely reply with an extension of time has been filed, the Notice of Abandonment was mailed prematurely and that the holding of abandonment should be withdrawn.

Upon review, petitioners are correct. It is noted that the Notification mailed on 31 October, 2005, states that applicant is given one month or 30 days to respond and that EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136." Further, MPEP 1205.03 states that applicant will be given 1 month or 30 days from the mailing of the notification of non-compliance, whichever is longer, to file an amended brief. Extensions of time may be granted under 37 CFR 1.136(a) or 1.136(b). As such, applicant is in fact entitled to obtain extensions of time to respond to the Notice.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 3733 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6684745
Issue Date: February 3,2004
Application No. 10037926
Filed: January 3,2002
Attorney Docket No. D-1115(DIV)

:

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

:

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

The petition is GRANTED.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6684745	2004-02-03	10037926	2002-01-03	D-1115(DIV)

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	/Maurice E. Gauthier/	Date (YYYY-MM-DD)	2008-03-20
Name	Maurice E. Gauthier	Registration Number	20798

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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04132004

CHRISTIE, PARKER & HALE, LLP
350 W. Colorado Blvd.
Suite 500
Pasadena, CA 91105

APR 14 2004

In re Application of:
Oskar J. Painter et al.
Serial No.: 10/037,966
Filed: December 21. 2001
Attorney Docket No.: CQC14NP

DECISION ON PETITION

This is a response to the communication, filed February 13, 2004, via facsimile transmission. The communication is being treated as a petition to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of July 9, 2003. A Notice of Abandonment was mailed on February 5, 2004.

Petitioner has submitted a copy of a return postcard receipt on which the US Patent and Trademark Office (USPTO) acknowledges receipt of a Request for Reconsideration, a Transmittal Letter and a stamped self-addressed return postcard for the above-identifies application on October 1, 2003. Copies of the Request for Reconsideration and the Transmittal Letter were submitted along with the postcard receipt.

The response was not of record at the time the Notice of Abandonment was mailed but has since been associated with the application file. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

An Office action will be issued in due course.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

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
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DIW 09-02

Paper No. 6

MARIA M. ELLSEEVA, ESQ.
BROWN RUDNICK BERLACK ISREALS, LLP
ONE FINANCIAL CENTER
BOSTON MA 02110

COPY MAILED

SEP 1 6 2002

OFFICE OF PETITIONS

In re Application of :
Steinberg, Sherrer, Duartartas, and:
Schinazi : DECISION REFUSING STATUS
Application No. 10/037,971 : UNDER 37 CFR 1.47(a)
Filed: 24 October, 2001 :
Atty Docket No. ACT141P (11671003) :

This is in response to the petition filed under 37 CFR 1.47(a) on 26 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 issue application was filed on 24 October, 2001, without an executed oath or declaration. Accordingly, on 19 March, 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 26 August, 2002 (certificate of mailing date 19 August, 2002), petitioners filed a three (3) month extension of time, accompanied by the present petition and authorization to charge the petition fee and late-filing surcharge and a declaration naming Dan A. Steinberg, David W.

Sherrer, Mindaugas F. Duartatas, and Robert G. Schinazi as joint inventors and signed by joint inventors Sherrer and Duartatas on behalf of themselves and joint inventors Steinberg and Schinazi.

Petitioners state that joint inventor Sherrer asked joint inventor Steinberg to sign the declaration, but joint inventor Steinberg refused to sign the declaration. Additionally, petitioners state that joint inventor Schinazi cannot be reached.

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). Petitioners have not shown proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to the non-signing inventors for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must provide proof that the inventors have refused to sign the declaration.[2] If there is a written refusal, petitioners should 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 facts.

If application papers sent to one or more of the inventors at

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[1] MPEP 409.03(d).

[2] Id.

their last known addresses are returned as undeliverable, petitioners may show proof that diligent efforts have been made to locate the non-signing inventor(s) by providing a copy of an envelope showing that a letter sent to the last known address of the non-singing 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 an inventor(s) cannot be reached at his or her last known address, petitioners must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate that inventor, send or give a copy of the application papers to him or her, and request that he or she sign and return the declaration. If repeated attempts to contact an inventor(s) by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that an inventor(s) cannot be found despite diligent efforts.

It is also noted that if a more recent last known address is found for joint inventor Schinazi, that address should be provided with any renewed petition.

Counsel's deposit account, No. 50-0369, has been charged the $130.00 fee for consideration of the petition under 37 CFR 1.47(a).

The correspondence address has been changed as indicated in the declaration and power of attorney filed on 26 August, 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
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DIW 12-02

Paper No. 9

MARIA M. ELLSEEVA, ESQ.
BROWN RUDNICK BERLACK ISREALS, LLP
ONE FINANCIAL CENTER
BOSTON MA 02110

COPY MAILED

DEC 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Steinberg, Sherrer, Duartartas, and :
Schinazi : DECISION REFUSING STATUS
Application No. 10/037,971 : UNDER 37 CFR 1.47(a)
Filed: 24 October, 2001 :
Atty Docket No. ACT141P (11671003) :

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 25 November, 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(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 renewed petition is accompanied by a declaration signed by previously non-signing joint inventor Steinberg in which the inventor has written on the declaration "I am not the first inventor, Rob Schinazi is the first inventor, I think," as well as a declaration signed by joint inventor Schinazi naming Schinazi as the sole inventor.

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 (2). An oath or declaration in compliance with 37 CFR 1.63 and 1.67 in that the declaration signed by joint inventor Schinazi does not list the correct inventive entity but rather lists Schinazi as the sole inventor. Additionally, the declaration signed by joint inventor Steinberg is defective in that it contains non-initialed and/or non-dated alterations.[1] A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 signed by all of the signing inventors is required.

Further, in regards to joint inventor Steinberg's contention that he is not the first inventor, the order names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration.[2] Since the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned, no changes will be made except when a petition under 37 CFR 1.182 is granted. Therefore, if petitioners desire that the order of names be other than as specified on the declaration filed with the application, a petition under 37 CFR 1.182 to change the order of inventors must be filed, accompanied by the requisite petition fee.

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

---

[1] See 37 CFR 1.52(c).

[2] MPEP 605.04(f).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIW 05-03

Paper No. 13

MARIA M. ELLSEEVA, ESQ.
BROWN RUDNICK BERLACK ISREALS, LLP
ONE FINANCIAL CENTER
BOSTON MA 02110

COPY MAILED

MAY 16 2003

OFFICE OF PETITIONS

In re Application of :
Steinberg, Sherrer, Duartartas, and:
Schinazi : DECISION ACCORDING STATUS
Application No. 10/037,971 : UNDER 37 CFR 1.47(a)
Filed: 24 October, 2001 :
Atty Docket No. ACT141P (11671003) :

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 5 May, 2003.

The petition is **GRANTED**.

Petitioner has shown that non-signing inventor Robert Schinazi has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the declaration of petitioners' registered patent attorney, Maria Ellseeva, states that joint inventor Schinazi was supplied, via E-mail, a copy of the application and the declaration. Schinazi has refused, however, to sign and return the declaration naming him as a joint inventor along with joint inventors Dan A. Steinberg, David W. Sherrer, and Mindaugas F. Dartartas.

Additionally, as joint inventor Steinberg has altered the declaration he signed to reflect that he is not the first inventor, he is also considered not to have signed a declaration in compliance with 37 CFR 1.63 and 1.64 and is considered a non-signing inventor.

Petitioners are further advised that a petition under 37 CFR 1.48 is required to delete inventors Steinberg and/or Schinazi if, on further investigation, applicants find that the inventorship should be to joint inventor Schinazi as joint inventors Steinberg or Schinazi claim.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. The Office is construing the Oceanside, CA address listed in the defective declaration signed by joint inventor Schinazi as Schinazi's last known address and will forward notice to him at that address. Petitioners **must** inform the Office if this is an incorrect interpretation. Notice of the filing of this application will also be published in the Official Gazette.

The address listed on the petition filed on 5 May, 2003, is different than the correspondence address listed in Office records. The Office is sending a courtesy copy of this decision to the address listed on the petition. All future correspondence, however, will be sent solely to the address of record. A change of correspondence address should be filed if necessary.

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

cc: Houston Eliseeva
4 Militia Drive, Suite 4
Lexington, MA 02421

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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DIW 05-03

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MAY 16 2003

OFFICE OF PETITIONS

Dan A. Steinberg
410 Lee Street
Blacksburg, VA 24060

In re Application of
Schinazi et al.
Application No. 10/037,971
Filed: 24 October, 2001
For: FIBER ARRAY WITH V-GROOVE CHIP AND MOUNT

Dear Mr. Steinberg:

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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

MARIA M. ELLSEEVA, ESQ.
BROWN RUDNICK BERLACK ISREALS, LLP
ONE FINANCIAL CENTER
BOSTON MA 02110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

Jason H Foster
KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 Slate Ridge Boulevard
Reynoldsburg, Ohio 43068

MAIL

FEB 13 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Steven N Verona :
Application No.: 10/037,985 :
Filed: January 04, 2002 :
For:TELECOMMUNICATION METHOD :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed January 04, 2002, to make the above-identified application special pursuant to M.P.E.P. § 708.02(VIII).

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(h) (note the correction from CFR 1.17 (I) to CFR 1.17 (h)), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

The petition meets the above stated requirements and is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE CA 95076

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AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of :
Kulkarni et al. :
Application No. 10/038012 : DECISION ON PETITION
Filed 01/02/2002 :
Attorney Docket No. 6612 :

This is a decision on the "Letter to Office of Petitions," filed June 18, 2007, for correction of Office records correcting the priority claim to foreign India Application No. 796/MUM/2001, filed August 14, 2001.

A review of Office records reveals that Applicant filed an oath/declaration with the application claiming priority to foreign India Application No. 810/MUM/2001, filed August 21, 2001. Applicant filed a "Letter to the Examiner" correcting the priority claim to foreign India Application No. 796/MUM/2001, filed August 14, 2001, along with an oath/declaration correcting the priority claim to the same foreign India Application No. 796/MUM/2001, filed August 14, 2001.

37 CFR § 1.55, Claim for foreign priority, states, in relevant part,

> (a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b).
> (1) (i) In an original application filed under 35 U.S.C. 111(a), **the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify 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 (or intellectual property authority), day, month, and year of its filing.**

While a reference to the prior-filed provisional application was not included on filing, the reference was nevertheless timely made. In view of the above, no petition fee has been charged and none is due.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition[1].

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2151 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed application.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

[1] Applicant is advised that the case is currently abandoned.

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United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/038,012	01/02/2002	2151	740	P8000	17	3

CONFIRMATION NO. 6612

CORRECTED FILING RECEIPT

24739
CENTRAL COAST PATENT AGENCY, INC
3 HANGAR WAY SUITE D
WATSONVILLE, CA 95076

OC000000025038382

Date Mailed: 07/26/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Vinay Vasant Kulkarni, Pune, INDIA;
Sreedhar Sannareddy Reddy, Pune, INDIA;

Power of Attorney:

Donald Boys--35074

Domestic Priority data as claimed by applicant

Foreign Applications

INDIA 796/MUM/2001 08/14/2001

If Required, Foreign Filing License Granted: 02/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/038,012

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for reengineering legacy systems for seamless interaction with distributed component systems

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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JAY CHESAVAGE
3833 MIDDLEFIELD ROAD
PALO ALTO, CA 94303

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JUL 16 2004

OFFICE OF PETITIONS

In re Application of :
Ives :
Application No. 10/038,016 : ON PETITION
Filed: January 3, 2002 :
For: DEPRESSED COLLECTOR :

This decision concerns the June 10, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on December 13, 2003 for failure to timely respond to the September 12, 2003 non-final Office Action.

The instant petition encloses an amendment and the $665 petition fee (small entity), and states in essence that the entire delay in responding to this non-final Office action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

Finally, the petition encloses a $475 payment intended for a 3-month extension of time. However, an extension of time under 37 CFR 1.136 may only be obtained prior to expiration of the maximum extendable reply period.[1] The request for extension of time submitted with the instant petition is not applicable, in that, it is filed subsequent to the maximum extendable reply period, i.e., subsequent to March 12, 2004. Accordingly, the $475 payment has been refunded.

The application file is being returned to Technology Center 2800 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[1] See In re Application of S., 8 U.S.P.Q.2d 1630, 1631 (Comm'r Pats. 1988).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/10/08

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 10038016 Patent No.: 6838829 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: The certicates of correction has been considered, and has been entered as directed to matters of form not affecting the scope of the invention.

Doug K. Owens AU 2821
DOUGLAS W. OWENS
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

In re Application of
Michael Wand et al.
Application No. 10/038,054 : ON PETITION
Filed: January 3, 2002
Attorney Docket No: **61297-318422**

This is a decision on the petition under 37 CFR 1.137(b)[1], filed November 28, 2006, to revive the above identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 27, 2006. The large entity issue fee was paid July 28, 2006 however after the due date and thus the application was properly abandoned and accordingly, a Notice of Abandonment was mailed November 16, 2006.

---

[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)).

The instant petition is accompanied by a fee in the amount of $750.00 representing the small entity fee for a petition to revive. However, a review of the file reveals that this application is a large entity and therefore the fee paid should have been in the amount of $1500.00.

Pursuant to 37 CFR 1.137(b) however, the instant petition lacks item (2) of the regulation. Effective October 1, 2004 the petition fee was set at $1500 for a large entity and $750 for a small entity. In view thereof, the balance of the petition fee ($750.00) is due before a petition on the merits can be addressed and granted. The application will therefore remain in an abandoned status until such time as the petition fee has been paid.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of
Michael Wand et al.
Application No. 10/038,054
Filed: January 3, 2002
Attorney Docket No: **61297-318422**

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b),[1] filed January 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 27, 2006. The large entity issue fee was paid July 28, 2006 however after the due date and thus the application was properly. A petition filed November 28, 2006 under 37 CFR 1.137(b) was dismissed in a decision mailed December 20, 2006 because the petition fees were deficient.

Comes now petitioner with the instant renewed petition and the proper petition fees. All other requirements having been met, this matter is being referred to the Publishing Division to be processed into a patent.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
(2) the petition fee as set forth in 37 CFR 1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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
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LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA 02142

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
Neil Rasmussen et al :
Application No. 10/038,106 : ON PETITION
Filed: January 2, 2002 :
Attorney Docket No. A2000-700810 :

This is a decision on the petition, filed May 18, 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 28, 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 2831 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : May 19, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Neil Rasmussen et al
Application No. :10/038,106
Filed :January 2, 2002

The above-identified application has been assigned Patent No. 6,897,376 and an issue date of May 24, 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 May 24, 2005:

"All reference to Patent No. 6,897,376 to Neil Rasmussen et al of Massachusetts for ADJUSTABLE SCALABLE RACK POWER SYSTEM AND METHOD appearing in the Official Gazette of May 24, 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

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ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE MA 02142

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AUG 11 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Neil Rasmussen et al :
Application No. 10/038,106 :
Filed: January 2, 2002 :
Attorney Docket No. A2000-700810 :

This is a decision on the petition, filed August 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 5, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2831 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : August 11, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Neil Rasmussen et al
Application No. :10/038,106
Filed :January 2, 2002

The above-identified application has been assigned Patent No. 6,930,245 and an issue date of August 16, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 16, 2005:

"All reference to Patent No. 6,930,245 to Neil Rasmussen et al of Massachusetts for ADJUSTABLE SCALABLE RACK POWER SYSTEM AND METHOD appearing in the Official Gazette of August 16, 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
Washington, D.C. 20231
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Paper No. 4

Docket Administrator (Room 3J-219)
Lucent Technologies Inc.
101 Crawfords Corner Road
Holmdel, NJ 07733-3030

COPY MAILED

JUN 05 2002

OFFICE OF PETITIONS

In re Application of	:	
Casati et al.	:	
Application No. 10/038,141	:	DECISION GRANTING
Filed: January 3, 2002	:	PETITION
Attorney Docket No. 7-3	:	

This is a decision on the petition filed April 17, 2002, to accord the above-identified application a filing date of January 3, 2002.

On January 3, 2002, the application was filed.

On February 12, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on January 3, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Drawings __5__ pages" on January 3, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 5 pages of drawings.

Upon review of the record, the drawings deposited on January 3, 2002, have not been located. However, the evidence is convincing that the application papers deposited on January 3, 2002, included the drawings and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of January 3, 2002.

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

No petition fee is required and none has been charged.

The Notice mailed February 12, 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 January 3, 2002, using the application papers filed on January 3, 2002, and the copy of five pages of drawings filed on April 17, 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

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5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

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JAN 22 2008

OFFICE OF PETITIONS

In re Application of :
Nikolai K.N. Leung :
Application No. 10/038,184 : ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. 020046 :

This is a decision on the petition under 37 CFR 1.137(b), filed on February 12, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed June 2, 2006. A Notice of Abandonment was mailed on October 30, 2006.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

As authorized, fees totaling $3,200 have been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 4

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NOV 15 2002

OFFICE OF PETITIONS

DECISION GRANTING PETITION

Pennie & Edmonds. LLP
3300 Hillview Avenue
Palo Alto CA 94304

In re Application of:
Yang
Application No. 10/038,193
Filed: October 23, 2001
Attorney Docket No. 10752-005-999

This is a decision on the March 19, 2002 petition under 37 C.F.R. §1.10(c) requesting that the above-identified application be accorded a filing date of October 23, 2001 rather than the presently accorded filing date of November 23, 2001.

Petitioner alleges that the application was deposited in Express Mail service on October 23, 2001. In support, the petition is accompanied by a copy of Express Mail receipt no. EL452481564US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of October 23, 2001.

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

This application will be returned to Initial Patent Examination Division for correction of the filing date to October 23, 2001.

Although the address given on the petition differs from the address of record, the application does not indicate that a change of address has been filed. A change of address should be filed in this case in accordance with M.P.E.P. 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this 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

cc: Samuel B. Abrams
Pennie & Edmonds, LLP
1155 Avenue of the Americas
New York, NY 10036-2711

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

HUGH R. KRESS
WINSTEAD SECHREST & NIMICK P.C.
2400 BANK ONE CENTER
910 TRAVIS STREET
HOUSTON, TX 77002

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DEC 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Daniel T. Colbert et al :
Application No. 10/038,204 : NOTICE
Filed: December 21, 2001 :
Attorney Docket No. 11321-P011C1D3 :

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 1754.

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

ROSS SPENCER GARSSON
PO BOX 50784
DALLAS TX 75201

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OCT 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Colbert, et al.	:	
Application No. 10/038,204	:	DECISION ON PETITION
Filed: December 21, 2001	:	
Attorney Docket No. 11321-P011C1D3	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 6, 2005.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed February 17, 2005. Applicants filed an amendment on December 20, 2004, made timely by including a Certificate of Mailing dated July 18, 2005 and by obtaining a two month extension of time.[1] However, the examiner determined that the amendment did not *prima facie* place the application in condition for allowance. Accordingly, an Advisory Action was mailed on August 9, 2005, informing applicants that the amendment would not be entered. No further reply having been received, the above-identified application became abandoned on July 18, 2005. The mailing of this decision precedes the mailing of a Notice of Abandonment.

[1] July 17, 2005 fell on a Sunday. See 37 CFR 1.7(a).

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and filed a proper reply in the form of a Request for Continued Examination (RCE).

The Change of Correspondence Address submitted with the instant petition has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to Group Art Unit 1754 for consideration of the RCE, filed September 6, 2005.

Telephone inquiries concerning 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.

INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS, MN 55402

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Warwick et al.	:	
Application No. 10/038,208	:	DECISION ON PETITION
Filed: January 2, 2002	:	
Attorney Docket Number:	:	
39340.1.1.3	:	
	:	

This is a decision on the "PETITION TO CLAIM BENEFIT UNDER 35 U.S.C. 119(e) OF PRIOR FILED PROVISIONAL APPLICATION (37 C.F.R. § 1.78(a)(6))," filed November 22, 2004. Petitioner requests correction from a claim of priority to provisional application No. 60/084,605 to a claim of priority to provisional application No. 60/142,112. Accompanying this petition are a request for continued examination (RCE)and RCE fee.

The petition is **GRANTED**.

A 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, 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 surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5) and the date the claim was filed was unintentional; and

(3) the reference to the prior filed provisional application, supplied in an application data sheet (ADS)(37 CFR 1.76) or as an amendment in the first sentence of the specification following the title. See 35 USC 119(e) and 37 CFR 1.78(a)(5). The Director may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on January 2, 2002, as a continuation of PCT/US00/18037 filed June 29, 2000, with a claim for priority to provisional application No. 60/084,605. Petitioner states that provisional application No. 60/084,605 was identified in error. Rather, applicants intended to make a claim of priority to provisional application No. 60/142,112. The PCT application was filed on June 29, 2000, within twelve months of prior provisional application No. 60/142,112 which was filed on July 2, 1999, and for which priority is claimed. A reference to the prior provisional application has been included as an amendment to the first sentence of the specification following the title and has been supplied in an application data sheet.

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 USC 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 USC 119(e), the petition to accept an unintentionally delayed claim of benefit to prior filed provisional Application No. 60/142,112 is granted as of the date of filing the petition.

Receipt of the $1,370 fee required by 37 CFR 1.78(a)(6) is acknowledged.

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 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 USC 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 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 application, accompanies this decision.

This application is being forwarded to Technology Center Art Unit 3764 for consideration by the Examiner of applicant's claim under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles A. Pearson
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/28/08 **Paper No.:** —

TO SPE OF : ART UNIT 2131

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/038217 Patent No: 7336782 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: The applicant needs to file a petition for the patent term adjustment

William Korzuch — SPE

2431 — Art Unit

PAGE 1/1 * RCVD AT 1/11/2010 9:09:29 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2709892 * CSID:7033085359 * DURATION (mm-ss):01-02

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/17/06

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction on Patent No.: 6721779

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:

The proposed addition of the listed US and foreign patent document has been denied since such documents were neither cited by the examiner or submitted by applicant as a part of any existing IDS considered by the examiner.

SPE

2817
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

RITTER, LANG & KAPLAN
12930 SARATOGA AVE. SUITE D1
SARATOGA CA 95070

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NOV 26 2003

OFFICE OF PETITIONS

In re Application of
Charny et al.
Application No. 10/038,259
Filed: January 2, 2002
Attorney Docket No. CISCP731

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 10, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in a foreign country on December 23, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

Petitioner filed a "Request to Rescind Previous Nonpublication Request" on December 30, 2002 (certificate of mailing under 37 CFR 1.8 dated December 23, 2002). However, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1] The rescission request did not provide notice of the foreign filing. Accordingly, as the rescission was not made until after the filing of the foreign application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the foreign filing not later than forty-five days after the date the foreign application was filed to avoid abandonment of the application.[2]

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.

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

[2] See id.

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. The present application published on July 3, 2003.

This application is being forwarded to Technology Center Art Unit 2154 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ALLEN C. TURNER
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110-2550

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JAN 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Frits Jacobus Fallaux et al :
Application No. 10/038,271 : NOTICE
Filed: October 23, 2001 :
Attorney Docket No. 3833.6US

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.

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

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two, Lobby
Arlington, VA 22202

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

This file is being forwarded to Technology Center AU 1632.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TRASKBRITT
P O BOX 2550
SALT LAKE CITY, UT 84110

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Frits Jacobus Fallaux et al :
Application No. 10/038,271 : DECISION GRANTING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3833.6US :

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

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

This matter is being referred to Technology Center AU 1632 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

Paper No. 4

FOLEY & LARDNER
2029 CENTURY PARK EAST
35TH FLOOR
LOS ANGELES, CA 90067-3021

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AUG 0 2 2002

OFFICE OF PETITIONS

In re Application of
Shaun Pendo et al
Application No. 10/038,276
Filed: December 31, 2001
Attorney Docket No. 047711-0280

DECISION GRANTING PETITION

This is a decision on the paper styled "PETITION TO CORRECT FILING DATE" filed July 17, 2002, which is proper treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 31, 2001, rather than the presently accorded filing date of January 2, 2002.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on December 31, 2001, pursuant to 37 CFR 1.10. In support applicants submit, inter alia, a copy of a U.S. Postal Service (USPS) record styled "Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post" showing that a package bearing Express Mail label No. EL926457574US was picked up by the USPS from counsel's office on December 31, 2001. The same Express Mail receipt number was referred to in the copy of the original transmittal letter submitted with the present petition.

Since the evidence from the USPS, namely, the Express Mail pickup Service Statement, corroborates a "date-in" of December 31, 2001, the petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to December 31, 2001.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Brian Hearn
Special Projects 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
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SEP 10 2004

In re Application of :
Yoshiharu Omura : DECISION ON PETITION
Application No. 10/038,278 :
Filed: January 4, 2002 :
Attorney Docket No. 771,057

This is a decision on the petition filed on March 12, 2004 by which petitioner requests withdrawal of the technical state of abandonment that exists as a result of the apparent failure to file a reply to the Office letter dated August 29, 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 following to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply and a copy of a post card receipt for the reply showing that the reply was in fact received in the Office on December 3, 2003. However, the reply was filed with a 37 CFR 1.8(a) certificate of mailing dated December 1, 2003 affixed thereto. December 1, 2003, a Monday, is within the period set for filing a reply to the Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply attached to the petition with a "mail date" of December 3, 2003 and a "certificate of mailing date" of December 1, 2003. Thereafter, the application will be forwarded to examiner for action.

PETITION GRANTED.

Ethel Rollins-Cross, Director
Technology Center 3700

John S. Egbert
Harrison & Egbert
412 Main Street
7th Floor
Houston, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED
OCT 16 2006
OFFICE OF PETITIONS

In re Application of :
EHRICHT, et al. :
Application No. 10/038,284 : DECISION ON PETITION
Filed: January 2, 2002 : TO WITHDRAW
Attorney Docket No. 235.022US1 : 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 26, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Timothy B. Clise and all attorneys associated with Schwegman Lundberg Woessner & Kluth, PA have been revoked by the assignee of the patent application on August 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **STEPTOE & JOHNSON LLP**
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/038,284	01/02/2002	Ralf Ehricht	235.022US1

CONFIRMATION NO. 6813

OC000000020756975

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 10/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/038,284	01/02/2002	Ralf Ehricht	235.022US1

CONFIRMATION NO. 6813

OC000000020756976

27890
STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

Date Mailed: 10/10/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

FEB 03 2005

OFFICE OF PETITIONS

In re Application of :
Syamal Kumar Lahiri, et. al. :
Application No. 10/038,291 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. 11042-004 :

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

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment under 37 CFR 1.121 mailed March 17, 2004. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight April 17, 2004.

In response, petitioner submitted with the instant petition $685 for the petition to revive fee, an Amendment, and a Revocation/Substitute Power of Attorney with Change of Attorney Docket Number. Since the Assignee failed to comply with the requirements of 37 CFR 3.73(b), the Revocation/Substitute Power of Attorney and Change of Attorney Docket Number will not be entered. However, 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.

If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. See enclosed blank Statement under 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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 petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2813, for review of the amendment filed with the instant petition.

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

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

Enclosure: Blank Statement under 37 CFR 3.73(b)

cc: Workman Nydegger (F/K/A Workman Nydegger & Seeley)
60 East South Temple
1000 Eagle Gate Tower
Salt Lake City, UT 84111

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

STEVEN M. MILLS
MILLS & ONELLO LLP
ELEVEN BEACON STREET, SUITE 605
BOSTON, MA 02108

COPY MAILED

AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Sang-Young Kim et al.
Application No. 10/038,299
Filed: January 4, 2002
Attorney Docket No. SAM-0250

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

Papers filed on July 1, 2002 (certificate of mail date June 25, 2002), in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on April 26, 2002, included a Declaration signed by the previously nonsigning inventor, Sang-Young Kim.

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

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

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

Patricia Faison-Ball

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. 4

Steven M. Mills
MILLS & ONELLO LLP
Eleven Beacon Street, Suite 605
Boston MA 02108

COPY MAILED

APR 2 6 2002

OFFICE OF PETITIONS

In re Application of
Sang-Young Kim et al.
Application No. 10/038,299
Filed: January 4, 2002
Attorney Docket No. SAM-0250

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on January 4, 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 January 4, 2002, with a declaration naming Sang-Young Kim and Pil-Jae Jun as joint inventors and signed by inventor Pil- Jae Jun only. The present petition was also filed on January 4, 2002.

Petitioners state that they have been unable to locate Sang-Young Kim, that they have attempted to contact him by E-mail and by telephone, and that they mailed a copy of the application papers to the last known address. Petitioners further assert that the correspondence mailed to Mr. Kim was returned as address unknown.

A grantable petition under 37 CFR 1.47(a) requires:

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

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regard to item (1), the showing of record, a single mailing and single E-mail message, is not sufficient to show that diligent efforts were made to contact the non-signing inventor. Petitioners should attempt to determine the non-signing inventors current address through e-mail, national registry, or other types of searches. If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that the non-signing inventor cannot be reached.

While details of the efforts made to locate the non-signing inventor have been set forth in affidavits made by Ms. Eun-Jung Uhm and Ms. Jae-Sook Kim, petitioners should submit a copy of the envelope showing that the application sent to the last known address of the non-signing inventor was returned as undeliverable by the post office.

Additionally, as a copy of the application papers (specification, including claims, drawings, if any, and the declaration) must be sent to the non-signing inventor, petitioners should explain what papers were actually sent to the non-signing inventor.

In the event that the non-signing inventor refuses to sign the declaration, petitioners must present proof thereof. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

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

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at 703-305-4497.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 1 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRIAN M. BERLINER
O'MELVENY & MYERS LLP
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

In re application of:
USMAN et al.
Application No. 10/038,320
Filed: October 19, 2001
For: METHOD AND SYSTEM FOR FILTERING A SIGNAL AND PROVIDING ECHO CANCELLATION USING AN ADAPTIVE LENGTH FILTER

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 August 24, 2004

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

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All attorneys/agents associated 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: MR. ADEEL AHMED
QUARTICS, INC.
2 PETERS CANYON
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

2-22-07

Patent No. : 7,170,855 B1
Ser. No. : 10/038,337
Inventor(s) : Ning Mo, et. al.
Issued : January 30, 2007
Title : DEVICES, SOFTWARES AND MTHODS FOR SECTIVELY DISCARDING INDICATED ONES OF VOICE DATA PACKETS RECEIVED IN A JITTER BUFFER
Docket No. : 2705-201

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.

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 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.

Antonio Johnson
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 111** or (703) 308-8309

Eva James
For Cecelia Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or 103

ej

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090507

DATE : 05/01/09

TO SPE OF : ART UNIT 3628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10038344 Patent No.: 7200579 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.

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

Comments: All requested changes are approved, except for the last requested change, the one involving the mathematical expression. This change cannot be granted because the replacement text in the request is not legible, and the original text in the specification-as-filed is not legible.

John W. Hayes SPE 3628

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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. 5

Mark A. Litman & Associates, P.A.
York Business Center, Suite 205
3209 West 76th Street
Edina MN 55435

COPY MAILED

AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Xuzhi Qin : DECISION GRANTING PETITION
Application No. 10/038,350 :
Filed: November 20, 2001 :
Attorney Docket No. 589.117US1 :

This is a decision on the petition filed June 3, 2002, requesting that above-identified application be accorded a filing date of November 20, 2001, instead of the present filing date of January 7, 2002.

In the present petition, Amy Mesojedec, a paralegal for Mark A. Litman & Associates, stated she mailed the application via Express Mail service with Express Mail Label No. EL703681749US on November 20, 2001. Ms. Mesojedec further stated that she handed the application to a United States Postal Service (USPS) mail carrier, who brought the package to the USPS Branch in Edina, MN.

Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail Service to Washington, DC zip codes 202xx through 205xx. The United States Patent and Trademark Office (Office) designated this interruption in USPS Express Mail Service as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e).

On November 22, 2001, Ms. Mesojedec received a receipt from the USPS with a hand-written note on the receiving address stating, "SUSPENSION."

On October 9, 2001, the Office published a notice in the Official Gazette, which provides guidance under these circumstances, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

Accompanying the present petition, petitioner supplied a statement from Ms. Mesojedec declaring that she attempted to deposit the application with the USPS via Express Mail Service on November 20, 2001. Ms. Mesojedec further declares that a USPS employee at the USPS Branch in Edina, MN informed her that due to the suspended delivery to the address, the package was sent regular first class mail.

The requirements of the notice set forth in the Official Gazette on October 9, 2001, have been met. Accordingly, the petition is **granted**. The application will be accorded a filing date of November 20, 2001. The petition fee is unnecessary and will be credited to Deposit Account No. 50-1391.

The application file is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 20, 2001, and for mailing a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina T. Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH ST.
EDINA, MN 55435

COPY MAILED

NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Xuzhi Qin :
Application No. 10/038,350 : ON PETITION
Filed: November 20,2001 :
Attorney Docket No. 589.117US1 :

This is a decision on the petition, filed September 30, 2004, under 37 CFR 1.137(b) 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 January 15, 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, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on September 30, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

By hand:
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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

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

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

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www. uspto. gov

MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH STREET
EDINA, MN 55435

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APR 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Xuzhi Qin :
Application No. 10/038,350 : ON PETITION
Filed: November 20, 2001 :
Attorney Docket No. 589.117US1 :

This is a decision on the petition filed, January 3, 2005 which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 15, 2004, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 16, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the renewed petition on January 3, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account. Since the petition to revive fee was previously paid on September 30, 2004, the $1500 submitted with the petition on January 3, 2005 will also be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 3, 2005.

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

This matters is being referred to Technology Center AU 1712 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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MAIL

MAY 10 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BRIAN M BERLINER, ESQ
O'MELVENY & MYERS, LLP
400 SOUTH HOPE STREET
LOS ANGELES CA 90071-2899

In re Application of)
Usman et al.)
Application No. 10/038,367) DECISION ON REQUEST TO
Filed: October 19, 2001) WITHDRAW FROM RECORD
For: **METHOD AND SYSTEM FOR FILTERING A SIGNAL AND FOR PROVIDING ECHO CANCELLATION**)

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on July 28, 2004.

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

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

All attorneys/agents of Record are withdrawn.

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

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

CC:

Mr. Adeel Ahmed
QUARTICS, INC.
2 Peters Canyon
Irvine, California 92606

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

PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
3097 Satellite Blvd., 2nd Floor
Duluth, GA 30096

Mail Date: 05/21/2010

Applicant	: Dusty L. Lutz	: DECISION ON REQUEST FOR
Patent Number	: RE41093	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/038,377	: OF WYETH
Filed	: 10/19/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 11 2003

#9

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606-7407

In re Application of :
Vaidyanathan et al :
Serial No.: 10/038,398 : DECISION ON PETITION
Filed: January 2, 2002 :
For: Compositions and Methods for :
Biomedical Applications :

This is in response to the petition applicant filed on August 5, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(b).

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

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

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

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 5

MAIL

DEC 1 6 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK M. TAKAHASHI
GRAY CARY WARE & FREIDENRICH, LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO CA 92121-2133

In re Application of
FUQUA
Application No. 10/038,400
Filed: January 3, 2002
For: **APPARATUS, SYSTEM AND METHOD FOR CAPTURING SOUND**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on October 3, 2002.

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

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

Attorneys/agents listed in the request to withdraw are withdrawn.

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

The file is being returned to TC 2600 technical support staff to update the correspondence address, and then will be forwarded to TC 2600 central files.

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

cc:
Audiophoric, Inc.
P.O.Box 2389
Del Mar, California 92014

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

BAKER & MCKENZIE
2001 ROSS AVENUE
SUITE 2300
DALLAS, TX 75201

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of
Coles
Application No. 10/038,403
Filed: January 2, 2002
Attorney Docket No. 24141761.3

ON PETITION

This decision concerns the May 28, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On February 5, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, giving Applicant an extendable 2-month period for submitting an oath or declaration. No extension of time under 37 CFR 1.136(a) was obtained, and the oath or declaration was not submitted on or before April 5, 2002. The application became abandoned on April 6, 2002.

The instant petition encloses the $1,300 petition fee and a declaration and power of attorney executed by the sole inventor for this application; and includes a statement that the entire delay in submitting the declaration from its due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application is now complete.

As requested, the new correspondence address for this application has been entered and made of record.

The application file is being forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
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, VA22313-1450
www.uspto.gov

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of
Brian Taylor et al.
Application No. 10/038,405
Filed: January 3, 2002
Attorney Docket No. **RPS920050806US1**

DECISION ON PETITION
UNDER § 1.183

This is a decision on the petition, filed November 20, 2007 uder 37 CFR 1.47 but is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67.[1]

The petition is **DISMISSED**.

The supplemental declaration filed November 20, 2007 is signed by joint inventor Taylor. The supplemental declaration identifies joint inventor Allard by name, address and citizenship; however, the declaration is not signed by inventor Allard. The original declaration for patent filed in this application, pursuant to § 1.63(d) was signed by both Mr. Taylor and Mr. Allard.

Petitioners assert that joint inventor Allard refuses to sign the Supplemental Declaration however, the details regarding the presentation of the Supplemental Declaration do not accompany the petition thus, no showing that waiver of the requirement for inventor Allard's signature on the supplemental declaration is warranted.

The supplemental declaration provided is not therefore in compliance with 37 CFR § 1.67.

To avoid abandonment, the period for reply to this decision continues from the period set in the Office Action mailed September 20, 2007.

[1]The supplemental declaration was a requirement set out in a Ex Parte Quayle Office Action mailed September 20, 2007 which set a two month period for response.

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
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

DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of
Brian Taylor et al.
Application No. 10/038,405
Filed: January 3, 2002
Attorney Docket No. **RPS920050806US1**

DECISION ON PETITION
UNDER § 1.183

This is a decision on the request for reconsideration filed December 20, 2007 uder 37 CFR 1.47 but is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the signatures of all inventors as required by § 1.67. [1]

The petition is **GRANTED**.

The supplemental declaration filed November 20, 2007 is signed by joint inventor Taylor. The supplemental declaration identifies joint inventor Allard by name, address and citizenship; however, the declaration is not signed by inventor Allard. The original declaration for patent filed in this application, pursuant to § 1.63(d) was signed by both Mr. Taylor and Mr. Allard. A petition filed November 20, 2007 was dismissed in a decision mailed November 30, 2007 because while petitioners argued that joint inventor Allard refused to sign the Supplemental Declaration, the details regarding the presentation of the Supplemental Declaration did not accompany the petition thus, no showing that waiver of the requirement for inventor Allard's signature on the supplemental declaration was warranted § 1.67.[2]

Comes now petitioner with the instant renewed petition.

Petitioners establish that the non-signing inventor was contacted by email regarding the signing of the Supplemental Declaration and on more than one occasion, after

---

[1]Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration or to provide all information is a waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

[2]The supplemental declaration was a requirement set out in a Ex Parte Quayle Office Action mailed September 20, 2007 which set a two month period for response.

receipt of the Supplemental Declaration, joint inventor John Allard refused to sign.

The petition includes the last known address of the non-signing inventor and a fee in the amount of $200.00 for the petition. Petitioners are advised however that the fee for a petition under 37 CFR 1.183 is set at $400.00. Therein, petitioner's deposit account no. 50-0563 has been charged an additional $200.00 to make up the difference between that previously charged on November 20, 2007 and that which is due.

The supplemental declaration has been reviewed and found in compliance with §§ 1.67 and 1.63. In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventor Allard is appropriate.

This matter is being referred to Technology Center 3714 for further examination as appropriate.

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 5

SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITES 1600-1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

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OCT 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Matthew A. Bellew :
Application No. 10/038,412 : DECISION GRANTING PETITION
Filed: October 25, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 109870-130117 :

This is a decision on the petition, filed September 22, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on October 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 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 2183 for examination in due course.

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

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

Paper No. 5

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SEP 26 2002

OFFICE OF DIRECTOR
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Sosan B. Fentress
Buler, Snow, O'Mara, Stevens & Cannada, PLLC
P.O. Box 171443
Memphis, TN 38187

In re Application of:
Mark B. Hodes
Application No. 10/038,415
Filed: January 3, 2002
Attorney Docket No. 023987.43008

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 19, 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 was signed by all attorneys named as having power of attorney in this application. Additionally, there is no outstanding Office action requiring a response from applicant.

For the above reasons, the request is **approved.** There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to Mark B. Hodes at the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

Edward J. Glick, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Mark B. Hodes
5350 Poplar Avenue, Suite 750
Memphis, TN 38119

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 111203

TODD B. MURRAH
26 NORTH SECOND STREET
MEMPHIS TN 38103

MAILED
NOV 17 2003

OFFICE OF DIRECTOR
GROUP

In re Application of)
Mark B. HODES)
Application No.10/038,415) DECISION ON REQUEST TO
Filed: January 3, 2002) WITHDRAW FROM RECORD
For: Attorney Docket No. 023987.43008)

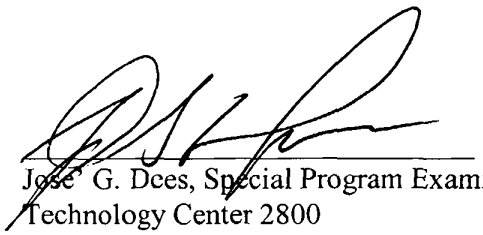
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed May 21, 2003.

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

The 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: Mark B. Hodes
5350 Poplar Avenue, Suite 750
Memphis, TN 38119

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 032204

Mark B. Hodes
5350 Poplar Avenue
Suite 750
Memphis, TN 38119

Todd B. Murrah
26 North Second Street
Memphis, TN 38103

In re Application of	)	
Mark B. Hodes	)	
Application No. 10/038,415	)	DECISION ON REQUEST TO
Filed: January 3, 2002	)	WITHDRAW FROM RECORD
For: Attorney Docket No. 023987.43008	)	

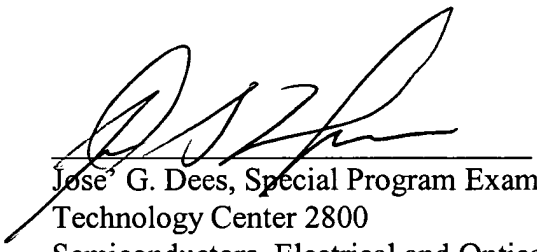
This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 17, 2003.

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

The request meets all the above listed requirements.

The request is APPROVED.

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



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

cc: Christopher Lamberson, Esq.
Glanker Brown, PLLC
One Commerce Square, Suite 1700
Memphis, TN 38103-2566

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WASHINGTON, D.C. 20231
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Paper No. 5

CARRIER CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
CARRIER PARKWAY, A&R BLDG.
SYRACUSE NY 13221

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JUL 0 3 2002

OFFICE OF PETITIONS

In re Application of
Bush, et al.
Application No. 10/038,439
Filed: January 7, 2002
Attorney Docket No. 9997A
For: METHOD TO ROUGH SIZE COATED COMPONENTS FOR EASY ASSEMBLY

DECISION DISMISSING PETITION

This is a decision on the petition under 37 CFR 1.182 and/or 1.183, filed April 16, 2002 (certificate of mailing date April 12, 2002), requesting that the above-identified application be accorded "...an earlier filing date but no later than December 28, 2001." The petition will be treated under 37 CFR 1.183.

The application was received in the Patent and Trademark Office (Office) on January 7, 2002. It was mailed by United States Postal Service (USPS) first class mail. Petitioners request a filing date of December 28, 2001 at the latest in order to maintain copendency with, and thereby claim benefit to, provisional application no. 60/259,064, filed December 28, 2000.

For grant of the relief sought in a petition under 37 CFR 1.183, petitioners 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).

Typically, a non-provisional application's filing date is the date upon which a specification, at least one claim, and drawings (if required) are filed in the Office. 37 CFR 1.53(b). This is the default rule. However, Public Law 97-247, 96 Stat. 317 (1982), amended 35 U.S.C. § 21 to permit, but not require, the Office to prescribe that any paper or fee required to be filed in the PTO be considered filed in the PTO on the date on which it was deposited with the USPS. While 35 U.S.C. 21 grants the Director the authority to consider any paper or fee filed in the PTO on the date the paper or fee was deposited with the USPS, the Director has specifically refused to exercise that authority in favor of mail other than Express Mail. Express Mail receives preferential treatment over all other types of mail. A paper filed in compliance with 37 CFR 1.10 will be considered as filed on the date the paper was deposited with the USPS in Express Mail service. Applications filed by types of mail other than Express Mail receive a filing date as of receipt in the Office.

The "extraordinary circumstances" rationale does not apply in petitioners' situation because petitioners could have filed the application via Express Mail service. Petitioners state that they chose not to rely on the provisions of 37 CFR 1.10 because they believed the application would arrive in the Office prior to December 28, 2001. Circumstances resulting from applicants' failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of extraordinary relief. *See In re Tetrafluor, Inc.*, 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); *In re Bird & Son, Inc.* 195 USPQ 586, 588 (Comm'r Pats. 1977); *Huston v. Ladner*, 23 USPQ2d 1910 (Fed. Cir. 1992); *Vincent v. Mossinghoff*, 230 USPQ 621, 625 (D.D.C. 1985). A party's failure to comply with the requirements of Rule 10 is not an extraordinary circumstance that would warrant waiver. *See Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995); *Nitto Chemical Industry Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994).

The evidence presented indicates that petitioners were aware that the application had to be filed no later than December 28, 2001 in order to obtain the benefits available under 35 U.S.C. 119(e) based on petitioners' prior provisional application No. 60/259,064. The application could have been accorded a filing date of or prior to December 28, 2001 under 37 CFR 1.10. Although petitioners knew the importance of obtaining a filing date of or prior to December 28, 2001, there was a failure on petitioners part to mail the application in a manner necessary to insure the desired filing date.

A reasonable person acting with due care and diligence would have filed the application in compliance with 37 CFR 1.10 to ensure its tiemly filing in the PTO. *Krahn v. Commissioner of Patents and Trademarks*, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

Accordingly, the petition is **dismissed**.

The application is being forwarded to Technology Center Art Unit 3744 with the presently accorded filing date of January 7, 2002 for examination in due course.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

Walter A. Hackler, Ph.D.
2372 S.E. Bristol
Suite B
Newport Beach, CA 92660-0755

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JUL 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Christoph Hehrlein :
Application No. 10/038,468 : DECISION ON PETITION
Filed: January 3, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2869 :

This is a decision on the petition filed February 19, 2003, under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional 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. No additional petition fee is required.

Petitioner has submitted a Request to Rescind Previous Nonpublication Request with the instant petition. However, petitioner has not stated that the instant nonprovisional application is the subject of an application filed in a foreign and that 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. Additionally, if an application was filed in a foreign country, petitioner must provide the exact filing date of the foreign application before a determination on the merits of the petition can be decided.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 7

Walter A. Hackler, Ph.D.
2372 S.E. Bristol
Suite B
Newport Beach, CA 92660-0755

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JUL 0 3 2003
OFFICE OF PETITIONS

In re Application of :
Christoph Hehrlein :
Application No. 10/038,468 : DECISION ON PETITION
Filed: January 3, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2869 :

This is a decision on the petition filed February 19, 2003, under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional 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. No additional petition fee is required.

Petitioner has submitted a Request to Rescind Previous Nonpublication Request with the instant petition. However, petitioner has not stated that the instant nonprovisional application is the subject of an application filed in a foreign and that 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. Additionally, if an application was filed in a foreign country, petitioner must provide the exact filing date of the foreign application before a determination on the merits of the petition can be decided.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P. O. Box 1450
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Paper No. 10

Walter A. Hackler
2372 S. E. Bristol
Suite B
Newport Beach, CA 92660-0755

COPY MAILED

JUL 17 2003

OFFICE OF PETITIONS

In re Application of :
Christoph Hehrlein :
Application No. 10/038,468 : DECISION GRANTING PETITION
Filed: January 3, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2869 :

This is a decision on the renewed 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 19, 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 October 23, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 1774 for examination in due course.

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WALTER A. HACKLER
2372 S.E. BRISTOL, SUITE B
NEWPORT BEACH, CA 92660-0755

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SEP 2 8 2007

OFFICE OF PETITIONS

In re Application of
Christoph Hehrlein et al.
Application No. 10/038,468
Filed: January 3, 2002
Attorney Docket No. 2869

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 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 Walter A. Hackler and all attorneys/agents associated with customer number 25822. All attorneys/agents associated with customer number 26822 have been withdrawn.

The change of correspondence address, filed with the request to withdraw as attorney was improperly accepted on August 24, 2007. In order for a change of correspondence address to be proper, the first signing inventor or an intervening assignee of the entire interest under 37 C.F.R. 3.71 must be the requestor and signed by the requestor. The proper power of attorney documents or change of address must be submitted.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Pandiscio & Pandiscio P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

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STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Call et al.	:	DECISION
Application No. 10/038,492	:	ON PETITION
Filed: January 2, 2002	:	
Attorney Docket Number:	:	
DANAI-125A	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed April 24, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to file a complete and proper reply to the final Office action, mailed September 20, 2005. The Office action set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an Amendment on March 3, 2005, however, the Amendment was deemed an improper reply. Applicant was so notified in a Notice of Abandonment mailed April 19, 2006.

With the instant petition, Applicant files the instant petition, Request for Continued Examination, and re-files the March 3, 2005 Amendment as the required submission.

This application is being returned to Technology Center 2615 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 8

MAIL

JUL 2 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SCOTT C. HARRIS
FISH & RICHARDSON P.C.
12390 EL CAMINO REAL
SAN DIEGO, CA 92130

In re Application of
CASTIEL et al.
Application No. 10/038,500
Filed: January 2, 2002

For: FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 24, 2004.
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

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

Attorneys/agents listed in the Request to withdraw are withdrawn.

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

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the TC's central files area to await action in its regular turn.

Kenneth A Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc:
David Castiel
Virtual Geosatellite, L.L.C.
4410 Massachusetts Avenue, N.W., #385
Washington, DC 20016-5572

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of Smith et al. :
Application No. 10/038,509 :
Filing Date: January 3, 2002 :
Attorney Docket No. 066742-0015 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed April 28, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A proper request to change the address of record was filed September 3, 2002. The Office failed to enter the change the address.

A non-final Office action was mailed June 7, 2004. The Office action was returned undelivered by the USPS. A Notice of Abandonment was mailed December 30, 2004. The Office action was returned undelivered by the USPS.

Discussion:

A review of the facts indicates the holding of abandonment was improper. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner submitted $750 for the petition fee. A petition fee is not required for a petition to withdraw the holding of abandonment under 37 CFR 1.181. Therefore, the $750 will be credited to petitioner's deposit account.

The petition states that a reply to the June 7, 2004 Office action is being filed concurrently. Unfortunately, the Office is unable to locate a copy of the reply. Therefore, the Office will re-mail the June 7, 2004 Office action.

Technology Center Art Unit 1644 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the June 7, 2004 Office action. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 13

KING & SPALDING
191 PEACHTREE STREET, N.E., 45th Floor
ATLANTA, GA 30303-1763

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FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Maynard, et al.
Application No.: 10/038,528 : ON PETITION
Filed: January 2, 2002
Attorney Docket No: 16600.105001

This is in response to the petition under 37 CFR 1.137(b) filed February 4, 2004.

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

On May 23, 2002, a "Notice to File Corrected Application Papers " was mailed by the Office requiring substitute drawings to be filed and allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). No response was noted as being received within in the allowable period and the application became abandoned on July 22, 2002. A Notice of Abandonment was mailed on January 2, 2004.

The substitute drawings filed February 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR 20 2007

Technology Center 2100

Paper No. 10

MERCHANT & GOULD, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of: Mahesh JAYACHANDRA
Application No. 10/038,529
Attorney Docket No. 13860.2US01
Filed: January 3, 2002
For: USER-FRIENDLY BRAHMI-DERIVED HINDI KEYBOARD

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the petition, filed under 37 CFR 1.10 to enter the amendment and response previously filed, which is being treated as a petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on January 30, 2007. In addition, the status letter of June 23, 2005 is acknowledged.

Although a notice of abandonment has not been mailed, the instant application became abandoned for failure to timely respond to the Office action mailed December 23, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response; a petition request for three month ($475) extension of time under 37 CFR §1.136(a); and a post card receipt identifying the contents of the response, which includes a USPTO receipt date of June 23, 2004.

Since all of the criteria set forth above have been met, the petition is **GRANTED**. The abandonment is hereby **WITHDRAWN**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **ENTER** the response of June 23, 2004 (copy filed January 30, 2007) and to update the current status of the application. The application will then be forwarded to the examiner for prompt action on the merits. Note, the fee for the three month extension of time was recorded on June 29, 2004.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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Paper No. 6

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED

JAN 3 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:

10/038,546

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

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

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

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HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
FORT COLLINS, CO 80527-2400

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MAR 23 2006

OFFICE OF PETITIONS

In re Application of :
Karen E. Kimball et al :
Application No. 10/038,579 : DECISION GRANTING PETITION
Filed: January 8, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 07275-0030-01 :

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

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

This matter is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION ZINN MacPEAK AND SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Tetsuya Kojima et al :
Application No. 10/038,582 : DECISION GRANTING PETITION
Filed: January 8, 2002 : UNDER 37 CFR 1.313(a)
Attorney Docket No. Q67851:

This is a decision on the petition under 37 CFR 1.313(a) (and (c)(2), filed March 14, 2005, requesting withdrawal of the above-identified application from issue.[1]

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 December 20, 2004, with the issue fee being due on or before March 20, 2005. The petition states that the issue fee in this case has not 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). Further, the petition is inappropriate under 37 CFR 1.313(c)(2) in that the issue fee has not been paid.

No fee has been assessed to the instant petition.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

The matter is being referred to Technology Center AU 2682 for appropriate processing of the RCE filed March 14, 2005 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] Although this matter is the subject of a petition decided by the Technology Center, the petition was received in the Office of Petitions for action. However, in order to expedite examination of this application, a decision on the petition to withdraw from issue has been rendered by the Office of Petitions.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Bruce D. Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7037498	: RECALCULATION of PATENT
Issue Date	: 05/02/2006	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/038,591	: OF WYETH
Filed	: 01/04/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 11-5

Paper No: __

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

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of
Scherer, et al :
Application No. 10/038,639 : ON PETITION
Filed: 4 January, 2002 :
Attorney Docket No.: 3616.213US01 :

This is a decision on the petition filed on 25 July, 2005, under 37 C.F.R. §1.48, requesting correction of the inventorship of the application; under 37 C.F.R. §1.183, requesting waiver of the declaration/statement requirement under §1.48; and under 37 C.F.R. §1.47, requesting authority to proceed with prosecution in the absence of a non-signing/unavailable inventor.

For the reasons set forth below the petition:

- under 37 C.F.R. §1.183 is **GRANTED**;
- under 37 C.F.R. §1.48 is **GRANTED**; and
- under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The instant application was filed on 4 January, 2002.

As averred in the petition of Julie R. Daulton (Reg. No. 36,414) (herein: Petitioner):

- the application was filed with an inventive entity consisting of named co-inventors

Ronald J. Scherer, David Matthew LaCroix and Glenn C. Bolles;

- during prosecution some claims were cancelled, requiring the deletion of Glenn C. Bolles from the inventive entity, and the contribution of Paul W. Bailey (Mr. Bailey) as co-inventor was recognized, requiring his addition to the inventive entity;

- the sole Assignee (supported with a certificate under 37 C.F.R. §3.73(b)) has assented to the alteration/correction of the inventive entity;

- Petitioner's supports allegations of satisfaction of the requirements of 37 C.F.R. §1.47 and attempted satisfaction of the requirements of 37 C.F.R. §1.48 with copies of referenced documents (e.g., transmittal letter); and

- Petitioner avers that Mr. Bailey has not responded to requests to enter provide a statement/declaration as required by 37 C.F.R. §1.48 or sign the corrected oath/declaration as required by 37 C.F.R. §1.63–thus Petitioner's averment of the necessity for waiver under 37 C.F.R. §1.183 of a requirement of 37 C.F.R. §1.48 and the submission to prosecution of the instant application under 37 C.F.R. §1.47 in the absence of the signature of a co-inventor, respectively.

As a result of papers filed on 25 July, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship; waiver under 37 C.F.R. §1.183 of a requirement of 37 C.F.R. §1.48 is proper in the premises; and, accordingly, this application has been corrected in compliance with 37 C.F.R. §1.48(a)(2).

The inventorship of this application has been changed by:

- the deletion of Glenn C. Bolles of the USA; and

- the inclusion of Paul W. Bailey of the USA.

Further, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

The application will be released to the forwarded to the Technology Center for further processing in due course after the change of inventorship is incorporated into the records of the Office, transmittal of a corrected filing receipt, and correction of the file jacket/PTO PALM data to reflect the inventorship as corrected.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-321459.

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
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Paper No. 7

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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DEC 2 3 2003

OFFICE OF PETITIONS

In re Application of :
David A. Wiebelhaus, et al. :
Application No. 10/038,641 : ON PETITION
Filed: January 2, 2002 :
Attorney Docket No. 501007-A-01-US (Clark) :

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 14, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future

correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 2800, Art Unit 2831 for further processing.

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

Retta Williams

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

cc: Scott L. Lowe
Birch, Stewart, Kolasch & Birch, LLP
P. O. Box 747
Falls Church, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No.

WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of Arthur Charles Ley et al.	:	
Application No. 10/038,722	:	DECISION ON APPLICATION
Filed: January 8, 2002	:	FOR
Atty Docket No. D0617.70005US01	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705", filed September 21, 2005. Applicants request that the patent term adjustment indicated in the Notice of Allowance be corrected from three hundred sixty-three (363) days to four hundred twenty-five (425) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is three hundred sixty-three **(363)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 16, 2005, the Office mailed the Notice of Allowance with a Patent Term Adjustment of 363 days. On September 21, 2005, applicants timely[1] filed the instant application for patent term adjustment. Applicants request that the 62-day reduction be corrected to 0 days as applicants' amendment, filed on March 21, 2005, was expressly requested by the examiner during a telephonic interview initiated by the examiner. In support thereof, applicants supplied a copy of the "Examiner-Initiated Interview Summary" covering the substance of the telephonic interviews conducted on February 20 and March 16, 2005.

Applicants disclose that this application is subject to a terminal disclaimer.

Applicants' argument is well-taken. 37 CFR § 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or

---

[1] PALM records indicate that the Issue Fee payment was also received on September 21, 2005.

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:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

A review of the application record confirms that the amendment, filed on March 21, 2005, was in response to a request made by the examiner during a telephonic interview initiated by the examiner on February 10, 2005. Therefore, this amendment does not trigger a reduction in PTA as it constitutes a supplemental reply or other paper expressly requested by the examiner.

For the record, the Office has confirmed that the second preliminary amendment filed on April 18, 2005 was also filed in reply to an express request made by the examiner during an telephonic interview on April 8, 2005. Thus, the PTA calculations for this application are correct in not entering a period of reduction in connection with this filing. See 37 CFR § 1.704(c)(8).

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is FOUR HUNDRED TWENTY-FIVE (425) 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. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, as well as, any additional patent term accrued for the Office taking in excess of three years to issue the patent[2].

---

[2] Applicants are reminded that: If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See

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

Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of REVISED PAIR Screen

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also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). As 522 days have already been entered for grounds specified in § 1.702(a)(1) and § 1.702(a)(2), no additional patent term will be entered for the Office taking in excess of three years to issue the patent unless the number of days of delay exceed 522 days.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

COPY MAILED

MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Letor, et al. :
Application No. 10/038,753 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. 854063.672 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 10, 2004. Accordingly, this application became abandoned on March 11, 2004.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

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

OIPE
JUL 07 2003
PATENT & TRADEMARK OFFICE

1755

PTO/SB/83 (03-02)
Approved for use through 10/31/2002. 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 Numb r	10/038,761
Filing Date	December 31, 2001
First Named Inventor	Reeves
Group Art Unit	1755
Examiner Name	
Attorney Docket Number	11710-0300 (44040-263112)

RECEIVED
JUL 09 2003
GROUP 1700

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

Approved NOV 30 2004
Jacqueline M. Stone, Director
Technology Center 1700

I hereby apply to withdraw as attorney or agent for the above identified application.

The reasons for this request are: Conflict of Interest

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

CORRESPONDENCE ADDRESS

☐ Customer Number
OR

Place Customer Number Bar Code Label here

☒ Firm *or* Individual Name	Kimberly-Clark Worldwide, Inc.				
Address	Legal Department				
Address	401 North Lake Street				
City	Neenah	**State**	WI	**ZIP**	54956
Country	USA				
Telephone	920-721-2000	**Fax**			

☒ This request is made on behalf of myself and
- ☐ all the attorneys/agents of record,
- ☒ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number ____

This request is enclosed in triplicate (including any attachments).

Name	Robert E. Richards – Reg. No. 29,105
Signature	
Date	7-3-03

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.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

7

NIXON & VANDERHYE P.C.
8th Floor
1100 North Glebe Road
Arlington VA 22201

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APR 2 9 2003

OFFICE OF PETITIONS

Applicant: Widegren et al
Appl. No.: 10/038,770
Filing Date: January 8, 2002
Title: METHOD AND APPARATUS FOR COORDINATING END-TO-END QUALITY OF SERVICE REQUIREMENTS FOR MEDIA FLOWS IN A MULTIMEDIA SESSION
Attorney Docket No.: 4009-25
Pub. No.: US 2002/0165966 A1
Pub. Date: November 7, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on December 19, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

The application is being forwarded to the Office of PreGrant Publication (PG-PUB) in Crystal Park 3-905 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 07-02

Paper No. 5

JOHN S. BEULICK
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQ., SUITE 2600
ST. LOUIS MO 63102

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AUG 1 2002

OFFICE OF PETITIONS

In re Application of :
Id. by Atty Docket No. 19398-2 :
Application No. 10/038,789 : DECISION GRANTING PETITION
Filed: 31 December, 2001 :
Atty's Docket No. 19398-2 :

This is a decision on the petition filed on 15 April, 2002, requesting that the above-identified application, including one (1) sheet of drawings containing Figure 41, be accorded a filing date of 31 December, 2001.

On 31 December, 2001, the application was filed.

On 14 February, 2002, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 31 December, 2001, but that, *inter alia*, Figure(s) 41 described in the specification appeared to have been omitted.

In response, on 15 April, 2002, *inter alia*, one (1) sheet of drawings containing Figure 41 and the present petition were submitted. Petitioners assert that Figure 41 was filed with the other application papers on 31 December, 2001, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 15 April, 2002. The postcard receipt shows an Office date stamp of 31 December, 2001, with the above-identified application number, and identifies the application by attorney docket number and invention title, and acknowledges receipt, *inter alia*, of drawings (71 sheets). Petitioners request that the application, including the drawings containing Figure 41, be accorded a filing date of 31 December, 2001.

A review of the record reveals that 70 sheets of drawings, containing Figures 1-40 and 42-71 are located among the application papers deposited on 31 December, 2001. However, the evidence is convincing that the application papers deposited on

31 December, 2001, included 71 sheets of drawings and that the sheet of drawings containing Figure 41 was subsequently misplaced in the Office. Therefore, the application, including the one (1) sheet of drawing containing Figure 41 as described in the specification, is entitled to a filing date of 31 December, 2001.

The "Notice" mailed on 14 February, 2002, is vacated to the extent that it states that Figure 41 appeared to have been omitted.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 31 December, 2001, using the 71 sheets of substitute drawings filed on 15 April, 2002, and for an indication on the bib-data sheet that 71 sheets of drawings were present on filing.

Telephone inquires should be directed to the undersigned at 703 308-6918.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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MAR 3 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Luo and Sullivan	:	
Application No.: 10/038,882	:	
Filed: January 2, 2002	:	DECISION ACCORDING
Attorney Docket No: 00-18	:	STATUS UNDER
For: BIDIRECTIONAL OPTICAL INTERLEAVER	:	RULE 47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 12, 2002.

The petition is **GRANTED**.

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

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on February 6, 2002, indicating that petitioner did not to file a proper oath or declaration in compliance with 37 CFR 1.63 and that the required claim and filing fees were not remitted.. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a).

In response thereto, petitioner filed a request for a four- month extension of the time set for reply and the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although the inventor Sullivan was presented with a complete copy of the application papers, inventor Sullivan has, to date, failed to execute the same.

Inventor Sullivan's failure to return the declaration, in spite of his receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

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

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

Kenya A. McLaughlin

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 16 2008

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of :
Kang-Bok Lee, et al. :
Application No. 10/038,923 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 51876P288 :

This is a decision on the petition, filed March 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed September 4, 2007. A Notice of Abandonment was mailed on January 4, 2008. In response, on March 7, 2008, 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 corrected drawings; (2) the petition fee of $770 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed March 7, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

James H. Salter
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025

COPY MAILED

OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of
Coelho, Payne & Adams
Application No. 10/038,933
Filed: January 4, 2002
Attorney Docket No. 42390P11783
For: CONSENT SYSTEM FOR ACCESSING HEALTH INFORMATION

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 27, 2002 (certificate of mailing date June 21, 2002).

The petition is granted.

Petitioners have shown that the non-signing inventor, Rohan Coelho, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of James H. Salter, the prosecuting attorney of record, establishes that the inventor was mailed the application papers, including the specification, claims and drawings, on more than one occasion, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 7

IP PATENTS
FAEGRE & BENSON LLP
1900 FIFTEENTH STREET
BOULDER CO 80302

MAILED

FEB 13 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Robert Fitzgerald :
Application No. 10/038,939 :
Filed: January 4, 2002 :
For: **CORDLESS TELEPHONE HEADSET SYSTEM** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on January 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 attorneys and agents 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: Santangelo Law Offices, P.C.
Chad C. Soliz
125 South Hawes Street, 3rd Floor
Fort Collins, CO 80521

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Christopher J. LEONARD
MERCHANT & GOULD PC
P. O. Box 2903
Minneapolis, MN 55402-0903

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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Lee FRIEDMAN
Application No. 10/038,944
Filed: December 31, 2001
Attoney Docket No.60027.0217/USU1/BS01154

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f) filed March 17, 2004, which is being treated as a petition under 37 CFR1.137(b) to revive the above-identified application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137 (f).

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

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country. The filing date of the subsequently filed foreign or international application is: November 4, 2002. However, the USPTO was unintentionally not notified of these filings within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

The previous Request and Certification under 35 U. S. C. Sect. 122 (b) (2) (B) (I) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be mailed in a separate correspondence.

There is no indication that the person signing the instant petition has a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center Art Unit 2173 for examination in due course.

Inquiries regarding this communication may be directed to Samuel A. Acquah at (703) 605-5229 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: John C. ALEMANNI
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KREMBLAS, FOSTER, PHILLIPS & POLLICK
7632 SLATE RIDGE BOULEVARD
REYNOLDSBURG, OH 43068

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AUG 15 2008

OFFICE OF PETITIONS

In re Application of :
Burkett, Jerald S. :
Application No. 10/038,946 : DECISION ON PETITION
Filed: January 3, 2002 :
Attorney Docket No. BUJ 005 P2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 19, 2007, as required by the Notice of Allowance and Fee(s) Due mailed January 19, 2007. Accordingly, the application became abandoned on April 20, 2007. A Notice of Abandonment was mailed May 15, 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 $720 and the publication fee of $300, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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KIMBERLY-CLARK WORLDWIDE, INC
401 NORTH LAKE STREET
NEENAH, WI 54956

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald L. Edens et al	:	
Application No. 10/038,970	:	ON PETITION
Filed: December 31, 2001	:	
Attorney Docket No. 17,707	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed March 8, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 9, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 8

HISCOCK & BARCLAY, LLP
2000 HSBC PLAZA
ROCHESTER, NY 14604-2404

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FEB 13 2006

OFFICE OF PETITIONS

In re Application of :
Wendy L. Winslow :
Application No. 10/038,992 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 3015521 US01 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 8, 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 April 9, 2002.

The Change of Correspondence Address has been accepted and recorded.

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 Replacement drawings; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed January 3, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application file is being forwarded to the Office of Initial Patent Examination 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
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 10-02

Paper No. 8

AKIN, GUMP, STRAUSS, HAUER & FELD
711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON TX 77002

COPY MAILED

OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Olarig and Cook	:	
Application No. 10/390,010	:	DECISION REFUSING STATUS
Filed: 31 December, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. H052617.1129US0	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 10 September, 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 31 December, 2001, without an executed oath or declaration. Accordingly, on 8 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 8 July, 2002, petitioners a declaration naming Sompong Paul Olarig and Pamela M. Cook as joint inventors and signed by joint inventor Olarig and a three (3) month time extension. Accordingly, on 5 July, 2002, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that joint inventor Cook's signature was necessary on the declaration.

In response, the present petition was filed on 10 September, 2002 (certificate of mailing date 9 September, 2002),[1] accompanied by a two (2) month extension of time. Petitioners assert that they have been unable to reach the non-signing inventors.

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), above, petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[2] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor at the last known address or details in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers.[3] If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

---

[1] As 8 September, 2002, fell on a Sunday, the response filed with a certificate of mailing dated 9 September, 2002, is considered timely filed. 37 CFR 1.7(a).

[2] MPEP 409.03(d).

[3] Id.

In the event that the application papers are returned as undeliverable, 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 any inventor no longer lives at the last known address, petitioners may show diligent efforts by use of a national registry or other database 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 repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Although petitioners filed a two (2) month extension of time on 10 September, 2002, a five (5) month extension of time was required for a timely reply to the Notice to File Missing Parts mailed on 8 February, 2002. Therefore, the three (3) month extension of time filed on 8 July, 2002, and the two (2) month extension of time filed on 10 September, 2002, have been credited to counsel's deposit account, and counsel's deposit account has instead been charged for a five (5) month extension of time. The difference of $640.00 has been charged to counsel's deposit account, No. 16-2435.

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 01-03

Paper No. 10

AKIN, GUMP, STRAUSS, HAUER & FELD
711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON TX 77002

COPY MAILED

JAN 0 7 2003

OFFICE OF PETITIONS

In re Application of	:	
Olarig and Cook	:	
Application No. 10/039,010	:	DECISION ACCORDING STATUS
Filed: 31 December, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. H052617.1129US0	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 30 December, 2002 (certificate of mailing date 26 December, 2002).

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Pamela Cook cannot be found. Specifically, petitioners have shown that a letter was sent via first class mail to the last known addresses of the non-signing joint inventor was returned by the U.S. Post Office as undeliverable. Additionally, despite several Internet searches, the last known address of the non-signing inventor could not be determined.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 01-03

Pamela M. Cook
17130 Kirkchapel Drive
Spring, TX 77379

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JAN 07 2003

OFFICE OF PETITIONS

In re Application of
Olarig et al.
Application No. 10/039,010
Filed: 31 December, 2001
For: SUPPORTING INTERLEAVED READ/WRITE OPERATIONS FROM/TO MULTIPLE TARGET DEVICES

Dear Ms. Cook:

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).

D Wood

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

AKIN, GUMP, STRAUSS, HAUER & FELD
711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON TX 77002

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. 10

AKIN, GUMP, STRAUSS, HAUER & FELD
711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON TX 77002

OIPE JC141
FEB 28 2005
PATENT & TRADEMARK OFFICE

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
Docket by
Action
Due date

COPY MAILED

JAN 07 2003

OFFICE OF PETITIONS

In re Application of :
Olarig and Cook :
Application No. 10/039,010 : DECISION ACCORDING STATUS
Filed: 31 December, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. H052617.1129US0:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 30 December, 2002 (certificate of mailing date 26 December, 2002).

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Pamela Cook cannot be found. Specifically, petitioners have shown that a letter was sent via first class mail to the last known addresses of the non-signing joint inventor was returned by the U.S. Post Office as undeliverable. Additionally, despite several Internet searches, the last known address of the non-signing inventor could not be determined.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 01-03

OIPE JC141
FEB 28 2005
PATENT & TRADEMARK OFFICE

Pamela M. Cook
17130 Kirkchapel Drive
Spring, TX 77379

COPY MAILED

JAN 07 2003

OFFICE OF PETITIONS

In re Application of
Olarig et al.
Application No. 10/039,010
Filed: 31 December, 2001
For: SUPPORTING INTERLEAVED READ/WRITE OPERATIONS FROM/TO MULTIPLE TARGET DEVICES

Dear Ms. Cook:

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).

D Wood

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

AKIN, GUMP, STRAUSS, HAUER & FELD
711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON TX 77002

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

Schlumberger Technology Corporation
110 Schlumberger Drive, MD-1
Sugar Land, TX 77478

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FEB 12 2003

OFFICE OF PETITIONS

In re Application of :
Xiaowei Weng et al. :
Application No. 10/039,019 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 56.0622 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 4, 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 April 5, 2002.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R. ALAN BURNETT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of :
Jones, et al. :
Application No. 10/039,037 : DECISION ON PETITION
Filed: January 4, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P043 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/039,037	01/04/2002	Shannon Jones	005306.P043

CONFIRMATION NO. 2355

OC000000020481112

OC000000020481112

R. Alan Burnett
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

Date Mailed: 09/19/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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LEOPOLD PRESSER
SCULLY SCOTT MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Gregory Collier et al :
Application No. 10/039,050 : DECISION ON PETITION
Filed: December 31, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 12785 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 7, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional Application No. 60/141,441, filed June 29, 1999, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

The 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) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the nonprovisional application seeking the claim for priority under 37 CFR 1.78(a)(6) must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application or the intermediate application claiming the benefit of the prior-filed provisional application must have

been filed within twelve months of the filing date of the prior-filed provisional application and the filing fee paid in the provisional application.

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

The application is being referred to Technology Center AU 1647 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

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
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/039,050	12/31/2001	1647	2868	12785	20	89	12

CONFIRMATION NO. 2282

CORRECTED FILING RECEIPT

OC000000018447250

Leopold Presser
Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

Date Mailed: 04/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gregory Collier, Ocean Grove, AUSTRALIA;
Paul Zev Zimmet, Toorak, AUSTRALIA;
Kenneth Russell Walder, Ocean Grove, AUSTRALIA;
Kelly Fiona Windmill, Newtown, AUSTRALIA;
Janine Susan McMillan, Torquay, AUSTRALIA;

Assignment For Published Patent Application

AUTOGEN RESEARCH PTY LTD., MELBOURNE, AUSTRALIA

Power of Attorney:

Edward Grolz--33705

Domestic Priority data as claimed by applicant

This application is a CON of PCT/AU00/00786 06/29/2000
which claims benefit of 60/141,441 06/29/1999

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/039,050

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Novel genes and their use in the modulation of obesity, diabetes and energy imbalance

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 7

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JUN 1 0 2002

OFFICE OF PETITIONS

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

In re Application of :
Subrahamanyan et al. :
Application No. 10/039,063 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. STL 10377/40046.179USU1 :

This is a decision on the petition filed April 17, 2002, to accord the above-identified application a filing date of December 31, 2001, instead of January 5, 2002.

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 December 31, 2001.

A petition fee is unnecessary for a petition under 37 CFR 1.10. Therefore, the $130 submitted with the petition will be credited 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 December 31, 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

In re Patent No. 6612400
Issue Date: September 2,2003
Application No. 10039065
Filed: January 5,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 29,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 29,2007. 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.

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)
6612400	2003-09-02	10039065	2002-01-05	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Andres E. Bravo/	Date (YYYY-MM-DD)	2007-09-14
Name	Andres E. Bravo		

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

MAR 0 9 2005

MacPherson Kwok Chen & Heid LLP
1762 Technology Drive, Suite 226
San Jose, CA 95110

In re Application of	:	DECISION ON PETITION
John M. Shamoun, Dr.	:	TO WITHDRAW
Serial No. : 10/039,066	:	HOLDING OF
Filed : January 4, 2002	:	ABANDONMENT
For : Cosmetic Surgery Preview System	:	

This is a decision on a request filed September 7, 2004 by applicant's former representatives, to review the holding of abandonment mailed August 23, 2004, for failure to file a proper response to the Office action mailed January 21, 2004. There is no fee required for this petition.

On January 21, 2004 a final rejection was mailed to applicant setting forth a three-month period for reply. Applicant was also reminded that under no circumstances would a reply be considered timely if filed after six months from the mailing date of the final rejection. That is a proper reply needed to be filed on or before July 21, 2004. On May 18, 2004, a reply was received with a one-month extension of time request. On July 26, 2004, an Advisory action was mailed to applicant indicating that the previously filed amendment failed to place the application in condition for allowance and therefore, would not be entered. Applicant was also informed that unless a proper reply to the final rejection under 37 CFR 1.113 was filed, listing "a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114" as one of the choices, the application would become abandoned. On August 20, 2004, applicant filed a Request for Continued Examination (RCE). As the RCE was filed more than six months after the mailing of the final rejection, it is not deemed to have been timely filed and the holding of abandonment for failure to file a timely response to the final rejection is proper and the request to withdraw the holding of abandonment is **denied**.

Any request for consideration of this decision should be submitted within TWO (2) MONTHS from the mailing date of this decision. The reconsideration request should include a cover letter titled "Renewed Petition Under 37 CFR 1.181". Telephone inquiries regarding this decision should be directed to Special Programs Examiner Andres Kashnikow at (571) 272-4361.

Applicant is also advised that abandonment of this application may also be overcome by means of a Petition to Revive under 37 CFR 1.137. Such a petition may follow either of two different paths, depending upon whether the failure to properly respond to the final rejection within the time period set was unavoidable (37 CFR 1.137(a)), or whether it was unintentional (37 CFR 1.137(b)). See section 711.03(c) of the Manual of Patent Examining Procedure.

Summary: Request to Withdraw Holding of Abandonment Denied.

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

ak/02/28/05

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MACPHERSON KWOK CHEN & HEID
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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APR 2 6 2005

OFFICE OF PETITIONS

In re Application of :
John M. Shamoun :
Application No. 10/039,066 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. 12457-0002/JWE :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 21, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on May 18, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed July 26, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on May 22, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

Pursuant to petitioner's authorization, Deposit Account No. 50-2257 was charged $750.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 3738 for processing of the request for continued examination under 37 CFR 1.114 filed August 20, 2004.

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

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.
10039072	1/2/02	YELLIN ET AL.	MP1433 (130194)

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

EXAMINER
KHAI TRAN

ART UNIT	PAPER
2611	20070814

DATE MAILED:

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

Commissioner for Patents

The Request for a Certification mailed 3/13/2007 has been entered and approved by Examiner.

KHAI TRAN
Primary Examiner
Art Unit: 2611

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : APRIL 11, 2007

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 10039072 Patent No.: 7133477B2

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: The Amendment does not change any scope of the claims.

David Ryan — **SPE**

264 — **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

In re Patent No. 6557313
Issue Date: May 6,2003
Application No. 10039101
Filed: January 4,2002
Attorney Docket No. 10106-1330

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

This is a decision on the electronic petition, filed September 11,2007,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 11,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6557313	2003-05-06	10039101	2002-01-04	10106-1330

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	/George M. Thomas/	Date (YYYY-MM-DD)	2007-09-11
Name	George M. Thomas	Registration Number	22260

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

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

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

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

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

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

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

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

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

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

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

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Paper No. 7

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

MAILED

NOV 17 2004

Technology Center 2100

In re Application of:
P.E. Gregory et al.
Application No. 10/039,106
Filed: January 04, 2002
For: SYSTEM AND METHOD FOR TERMINATING A BUS TECHNICAL FIELD

DECISION ON PETITION UNDER 37 C.F.R. § 1.8 TO ACCEPT PAPERS AS TIMELY FILED AND UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed June 30, 2004 under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The petition is treated as a petition under 37 C.F.R. § 1.8(b) to accept papers as timely filed and as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

The petition is **GRANTED.**

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed December 12, 2003. A Notice of Abandonment was mailed June 30, 2004.

Petitioner's submission of June 30, 2004 meets the applicable criteria. Petitioner asserted that a Response to the Office action was filed in a timely manner on January 02, 2004. A copy of the originally submitted amendment and a Certificate of Transmission signed by Sarah L. Reinhard dated January 02, 2004 have been provided. A personal statement of Sarah L. Reinhard is submitted on June 30, 2004.

For the above stated reasons, the petition is **GRANTED**. The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center support staff for entry of the copy of the response. From there, the application will be forwarded to examiner to consider the amendment.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program 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
Washington, D.C. 20231
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Paper No. 3

RITTER, LANG & KAPLAN
12930 SARATOGA AVE, SUITE D1
SARATOGA, CA 95070

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MAY 22 2002

OFFICE OF PETITIONS

In re Application of :
Lewis et al. :
Application No. 10/039,117 : ON PETITION
Filed: November 20, 2001 :
Attorney Docket No. CISCP722 :

This is a decision on the petition under 37 CFR 1.181 and 1.10 filed March 4, 2002, to accord the above-identified application a filing date of November 20, 2001, instead of January 8, 2002.

The petition is **granted**.

Petitioners attempted to deposit the application in "Express Mail" service with the U. S. Postal Service (USPS), on November 20, 2001. Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail service to Washington, D.C. zip codes 202xx through 205xx. The United States Patent and Trademark Office (USPTO) designated this interruption in USPS Express Mail service as a postal service interruption within the meaning of 35 USC 21(a) and 37 CFR 1.6(e).

The USPTO published a notice in the Official Gazette on October 9, 2001 that provides guidance in situations like this one, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

In accordance with the O.G. Notice, petitioners have mailed the USPTO a copy of the correspondence by first class mail with a statement by the person who originally deposited the correspondence with the USPS by Express Mail. The properly signed and dated statement declares that attorney Limper attempted to deposit the correspondence into Express Mail on November 20, 2001, but the USPS refused to accept it.

The evidence is convincing that petitioners attempted to deposit the application as "Express Mail" with the U.S. Postal Service on November 20, 2001, but due to a postal emergency, the package was refused by the USPS. In addition, petitioners promptly filed the application by another means of postal delivery after the Express Mail package was refused by the USPS.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of November 20, 2001.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 20, 2001.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

R. ALAN BURNETT
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES,CA 90025-1026

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Jones, et al. :
Application No. 10/039,118 : DECISION ON PETITION
Filed: January 4, 2002 : TO WITHDRAW
Attorney Docket No. 005306.P0006 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2006

The request is **NOT APPROVED**.

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

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

There is an outstanding Office action that was mailed June 20, 2006 that requires a response by the applicant.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

JAMES H. SALTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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JUL 2 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Maher M. Hawash et al	:	
Application No. 10/039,120	:	DECISION GRANTING STATUS
Filed: January 4, 2002	:	UNDER 37 CFR 1.47(A)
For: REAL-TIME PRESCRIPTION RENEWAL TRANSACTION ACROSS A NETWORK	:	

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

The petition is granted.

Petitioner has shown that the non-signing inventors (Maher M. Hawash and Rohan Coelho) have refused to join in the filing of the above-identified application.

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

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

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

MAHER M. HAWASH
2642 NE AURORA DRIVE
HILLSBORO, OR 97124

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JUL 2 4 2002

OFFICE OF PETITIONS

In re Application of
Hawash; Coelho; Allen; and Payne
Application No. 10/039,120
Filed: January 4, 2002
For: REAL-TIME PRESCRIPTION RENEWAL TRANSACTION ACROSS A NETWORK

Dear Mr. Hawash:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
JAMES H. SALTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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ROHAN COELHO
14949 NW WEST UNION ROAD
PORTLAND, OR 97229

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JUL 2 4 2002

OFFICE OF PETITIONS

In re Application of
Hawash; Coelho; Allen; and Payne
Application No. 10/039,120
Filed: January 4, 2002
For: REAL-TIME PRESCRIPTION RENEWAL TRANSACTION ACROSS A NETWORK

Dear Mr. Coelho:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
JAMES H. SALTER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

AKIN, GUMP, STRAUSS, HAUER & FELD
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SUITE 1900 SOUTH
HOUSTON, TX 77002

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OCT 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Prakash, et al. :
Application No. 10/039,125 : DECISION REFUSING STATUS
Filed: December 31, 2001 : UNDER 37 CFR 1.47(a)
Docket No.: H052617.1136US0 :
For: ARCHITECTURAL BASIS FOR THE :
BRIDGING OF SAN AND LAN :
INFRASTRUCTURES :

This decision is in response to the petition under 37 CFR 1.47(a), filed September 6, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 31, 2001 without an executed oath or declaration and naming Ramkrishna, Prakash, David M. Abmayr, Jeffrey H. Hilland, James Fouts, Scott C. Johnson, and William F. Whiteman as joint inventors. Accordingly, on February 6, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

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, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirement (1) stated above. The petition alleges inventor Scott C. Johnson cannot be located. Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. The declaration of Rochelle M. Pleasant indicates that attempts to locate the inventor via the inventor's last known telephone number, directory assistance and the Internet were unsuccessful. Petitioner has failed to provide any evidence to substantiate the efforts allegedly made to locate the inventor.

Moreover, while the petition alleges the non-inventor cannot be located at the non-signing inventor's last known address, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates inventor Scott C. Johnson has more recently resided at the following address: **1890 WOODWARD AVENUE, CLEVELAND HEIGHTS, OHIO 44118-2040.**

Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, claims, drawings, oath or declaration). Details regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein. Where appropriate, the declaration should be accompanied by substantiating evidence.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

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

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to 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
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Paper No. 14

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711 LOUISIANA STREET
SUITE 1900 SOUTH
HOUSTON, TX 77002

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JAN 14 2003

OFFICE OF PETITIONS

In re Application of	:	
Prakash, et al.	:	
Application No. 10/039,125	:	DECISION GRANTING STATUS
Filed: December 31, 2001	:	UNDER 37 CFR 1.47(a)
Docket No.: H052617.1136US0	:	
For: ARCHITECTURAL BASIS FOR THE BRIDGING OF SAN AND LAN INFRASTRUCTURES	:	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 3, 2002, 2002.

The petition is **GRANTED**.

Petitioner has submitted sufficient proof to demonstrate that bona fide effort has been made to provide the non-signing inventor, Scott C. Johnson, with the application papers and that either the non-signing inventor cannot be reached, or having been reached, refuses to execute the declaration.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 6

James A. Hudak, Esq.
29425 Chagrin Blvd., Suite #304
Cleveland, OH 44122

MAILED

DEC 12 2002

OFFICE OF DIRECTOR
GROUP

In re Application of:
EISENBERG *et al.*
Application No. 10/039,128
Filed: January 07, 2002
For: A Multi-Modality Apparatus for Dynamic Anatomical, Physiological and Molecular Imaging

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 30, 2002.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period 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 James A. Hudak and there are no outstanding Office actions which require a response.

The request is **APPROVED**.

No attorneys remain of record.

All future communications from the Office will be directed to the first named inventor, Harvey C. Eisenberg, at the address indicated below until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

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

cc: Harvey C. Eisenberg
Multi-Dimensional Imaging, Inc.
400 Newport Center Drive, Suite #100
Newport Beach, CA 92660

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Baker Botts, L.L.P.
Suite 600
2001 Ross Avenue
Dallas, TX 75201-2980

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Feng Yu, et. al. :
Application No. 10/039,187 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 075635.0108 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

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 July 5, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) was 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 after midnight September 5, 2006. See MPEP 1215.04. A Notice of Abandonment was mailed on March 1, 2007.

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.

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 under 37 CFR 1.114 and $790 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on March 9, 2007.

This application file is being referred to Technology Center Art Unit 2628, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

James H. Salter
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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SEP 0 3 2002

OFFICE OF PETITIONS

In re Application of :
Rohan Coelho :
Application No. 10/039,210 : DECISION REFUSING STATUS
Filed: January 4, 2002 : UNDER 37 CFR §1.47(b)
Title: REAL-TIME PRESCRIPTION :
TRANSACTION WITH ADJUDICATION :
ACROSS A NETWORK :

This is in response to the petition under 37 CFR §1.47(b), filed June 18, 2002 (certificate of mailing June 5, 2002).

The petition under 37 CFR §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 4, 2002, with an unexecuted declaration naming Rohan Coelho as sole inventor. Accordingly, on February 5, 2002, applicant was mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration, and a surcharge for late filing. This Notice set a period for reply of two months, with extensions of time obtainable under §1.136(a).

With the instant petition, petitioner submitted a declaration executed by Steven P. Skabrat, as agent for assignee Intel Corporation, on behalf of non-signing sole inventor Rohan Coelho; and paid the surcharge for late filing. To make the reply time, the petition was accompanied by a petition for extension for response within the second month (and fee). Applicant maintains that status under 37 CFR §1.47(b) is proper because sole inventor Coelho has, by his conduct, refused to join in the application. In support thereof, rule 47(b) applicant submits the declarations of prosecuting patent attorney James H. Salter and agent for assignee Steven P. Skabrat.

§1.47(b) provides that:

> Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned

> or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g).

See 35 U.S.C. §118; 37 C.F.R. §1.47; §§409.03 and 605 of the *Manual of Patent Examining Procedure* (8th ed)(Rev. 1, Aug. 2001)(MPEP).

The petition and declaration have been reviewed and found to satisfy requirements (2)-(7) above.

However, the petition does not satisfy requirement (1) above:

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP §324.

Rule 47(b) applicant has not provided an acceptable declaration because applicant has not shown that attorney Skabrat

has the authority to execute the declaration for patent on behalf of assignee Intel Corporation. The Office does not presume that the title "Agent" empowers attorney Skabrat with the authority to sign on behalf of assignee Intel in reference to this application. The petition does not include proof of attorney Skabrat's authority in the form of a statement signed by an appropriate corporate officer. Nor does attorney Skabrat state that he is authorized to sign on behalf of the corporation. Rather, attorney Skabrat states "[a]s an employee of Intel Corporation, I believe I have sufficient legal basis to act on behalf of and as agent for sole uncooperative inventor, Rohan Coelho." This is insufficient. It is not a definite statement of authority and it speaks to acting on behalf of the inventor and not in terms of being authorized to sign on behalf of the assignee. See also 37 CFR 3.73(b)(2).

Accordingly, the petition must be dismissed. On Request for Reconsideration, to avoid abandonment and attain 1.47 status, applicant must correct the noted deficiency and provide a 1.47 petition in compliance with all applicable law. As the 3.73(b) statement should be submitted prior to or with the paper in which action is taken, rule 47(b) applicant should submit a newly executed declaration including the appropriate statement of authority.

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: Office of Petitions
2201 South Clark Place
Crystal Plaza Four, Suite 3C23
Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

James H. Salter
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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OCT 2 5 2002

OFFICE OF PETITIONS

In re Application of :
Rohan Coelho :
Application No. 10/039,210 : DECISION ACCORDING STATUS
Filed: January 4, 2002 : UNDER 37 CFR § 1.47(b)
Title: REAL-TIME PRESCRIPTION :
TRANSACTION WITH ADJUDICATION :
ACROSS A NETWORK :

This is in response to the "Request for Reconsideration of Petition under 37 CFR § 1.47(b)," filed October 21, 2002.

The petition under 37 CFR § 1.47(b) is **GRANTED**.

The above-identified application was filed on January 4, 2002, with an unexecuted declaration naming Rohan Coelho as sole inventor. In response to a "Notice to File Missing Parts of Application" mailed February 5, 2002, rule 47 applicant filed the initial petition, asserting that status under 1.47(b) was proper because sole inventor Coelho has, by his conduct, refused to join in the application. The petition was dismissed because the declaration executed by Steven P. Skabrat was found unacceptable. Rule 47(b) applicant did not establish that attorney Skabrat had the authority to execute the declaration for patent on behalf of assignee Intel Corporation (Decision mailed September 3, 2002).

On instant request for reconsideration, petitioner submitted another declaration along with a statement that attorney Skabrat is authorized to sign on behalf of the assignee. This declaration has been reviewed and found acceptable.

This application is hereby accorded Rule 1.47(b) status.

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

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Rohan Coelho
12400 Wilson Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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OCT 25 2002

OFFICE OF PETITIONS

In re Application of :
Rohan Coelho :
Application No. 10/039,210 : LETTER
Filed: January 4, 2002 :
Title: REAL-TIME PRESCRIPTION :
TRANSACTION WITH ADJUDICATION :
ACROSS A NETWORK :

Dear Mr. Coelho:

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Petitions Attorney
Office of Petitions
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for Patent Examination Policy

James H. Salter
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 010504

Dean A. Craine
DEAN A. CRAINE, P.S.
Suite 140
400 112th Avenue NE
Bellevue, WA 98004-5542

In re Application of	:
Robert J. Schinski	: DECISION ON REQUEST TO
Application No. 10/039,213	: WITHDRAW FROM RECORD
Filed: January 4, 2002	:
Attorney Docket No. SCBO 102	:

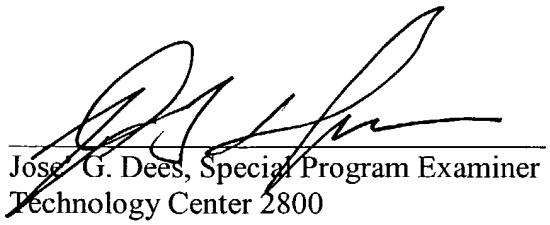
This is a decision on the request to withdraw as agent of record under 37 C.F.R. § 1.36, filed September 9, 2002.

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

The request 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: Bo Schinski
GEMSTONE CANDLES
15106 10th Avenue, SW
Seattle, WA 98166

SPE: S. Loke

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 021507

DATE : 10/24/06

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/039,215 Patent No.: 7023043

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: approved by ORI NADAU 2/15/07

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2/15/07 2811

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of :
Cassagnes :
Application No. 10/039,233 : DECISION ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 01RO11554371 :

This is a decision on the petition under 37 CFR 1.181, filed September 8, 2006, to withdraw the holding of abandonment.

On May 3, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application became abandoned on August 4, 2005. A Notice of Abandonment was mailed on September 5, 2006.

In the present petition, petitioner's practitioner asserted that he filed a timely response to the nonfinal Office action in the form of an amendment via facsimile transmission on August 3, 2005. In support of his assertion, the practitioner submitted a copy of the response, containing a certificate of facsimile transmission dated August 3, 2005. Additionally, the practitioner provided the Office with a copy of the sending unit's report confirming transmission of the amendment by fax on August 3, 2005.

Pursuant to 37 CFR 1.8:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and,

(3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on August 3, 2005. Accordingly, the petition is **granted**. The holding of abandonment is hereby withdrawn. The application will be restored to pending status in view of the fact that a response was timely submitted on August 3, 2005.

This matter is being referred to Technology Center Art Unit 2611 for a review of the amendment filed on August 3, 2005.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 12

Gregory R. Stephenson
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OFFICE OF PETITIONS

ON PETITION

In re Application of
Howard Simmons et al.
Application No. 10/039,235
Filed: December 31, 2001
Attorney Docket No. H2431-ED

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers Notice mailed June 19, 2002, which set a shortened statutory period for reply of (2) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on August 20, 2002.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mailed: MAR 1 2004

spg
Paper Number 11

In re application of :
Ralph Anderson et al. : DECISION ON
Serial No. 10/039,236 : PETITION
Filed: December 31, 2001 :
For: METHOD FOR REDUCING UNDESIRABLE ODORS :
GENERATED BY PAPER HAND TOWELS :

This is a response to the PETITION REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT OF A PATENT APPLICATION UNDER 37 C.F.R. § 1.181(a) filed November 6, 2003. The petition requests that the abandonment, as set forth in the Notice of Abandonment of November 3, 2003, for failure to timely file a proper reply to the Office letter of March 17, 2003, be withdrawn since the applicants did timely file a response thereto on June 16, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed June 16, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on June 16, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response and by the copy of the facsimile transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-305-7115), of 21 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on March 17, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed June 16, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
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ST LOUIS MO 63102

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OFFICE OF PETITIONS

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

In re Application Of :
Anderson, et al. : DECISION ON APPLICATION
Application No. 10/039,236 : FOR
Filed: December 31, 2001 : PATENT TERM ADJUSTMENT
Atty Docket No. KCC 4779 :

This is a decision on the "LETTER TO THE PATENT AND TRADEMARK OFFICE", filed March 14, 2007, which is being treated as an application for patent term adjustment under 37 C.F.R. §1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred forty-six (246) days.

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

On January 8, 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 March 14, 2007, applicants timely filed the instant application for patent term adjustment, asserting that the correct patent term at the time of mailing of the Notice of Allowance is two hundred forty-six (246) days.

Applicants assert entitlement to a patent term adjustment of two hundred forty-six (246) days on the basis that the PTO improperly assessed Applicants a delay of two hundred forty-six (246) days for responding to a March 17, 2003 Office action on February 18, 2004. Applicants assert that they timely filed a response on June 16, 2003. In addition, applicants assert that the PTO should have been assessed delay for not responding to applicants'

June 16, 2003 reply until July 12, 2004. Lastly, applicants claim that they should not have been assessed delay of forty-nine (49) and twenty-six (26) days for filing supplemental replies (Information Disclosure Statements) on September 26, 2005 and February 20, 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 two (402) days based on an adjustment for PTO delay of zero days, reduced by Applicant's delays of twenty-four (24) days and two hundred forty-six (246) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b), fifty-seven (57) days pursuant to 35 U.S.C. 154(b)(2)(C)(1) and 37 C.F.R. 1.704(c)(7), and forty-nine (49) and twenty-six (26) days pursuant to 35 U.S.C. 154(b)(2)(C)(1) and 37 C.F.R. 1.704(c)(8). The adjustments of 246, 57, 49, and 26 days are at issue.

Applicants are correct that they should not have been assessed two hundred forty-six (246) days of delay for filing an amendment on February 18, 2004. As pointed out in the decision withdrawing the holding of abandonment mailed on March 1, 2004, applicants timely filed the amendment on June 16, 2003. Accordingly, no applicant delay should have been assessed with respect to this filing.

The next Office communication mailed in response to the June 16, 2003 amendment was a Notice of Non-Compliant Amendment, mailed on April 6, 2004. As this was more than four months after applicants' amendment, the PTO should have been assessed one hundred eighty-two (182) days of Office delay pursuant to 37 C.F.R. 1.703(a)(2).

Applicants responded to the Notice of Non-Compliant Amendment on April 15, 2004. Applicants contend that they should not have been assessed any delay pursuant to 37 C.F.R. 1.704(c)(7), because their response as originally submitted on June 16, 2003 was fully responsive according to the requirements of amendment practice under 37 C.F.R. § 1.121 pending at the time. Thus, applicants maintain that there were no circumstances constituting a failure by the Applicant to engage in reasonable efforts to conclude processing or examination of such application as set forth in 37 C.F.R. § 1.704.

37 C.F.R. § 1.704(c)(7) provides that:

> Submission of a reply having an omission (§1.135(c))[1], 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.

Petitioner's arguments are not persuasive. By Notice mailed April 6, 2004, applicants were advised that their earlier amendment reply was a non-compliant amendment. A review of the amendment finds the amendment was not compliant with rule 1.121 or the voluntary revised amendment practice, that was in effect at that time, because the withdrawn claims did not include the text. The Notice was proper given applicants' submission of the amendment under voluntary revised amendment practice. Therefore, on April 15, 2004, applicants filed a supplemental response, correcting the items deemed non-responsive by the examiner. Accordingly, the period of reduction should have been calculated as three hundred four (304) days, the number of days in the period beginning on June 17, 2003 and ending on April 15, 2004.

Lastly, applicants' arguments that they should not have been assessed applicant delay of 49 and 26 days for filing supplemental IDSs on September 26, 2005 and February 20, 2006 has been considered, but is not persuasive. 37 C.F.R. § 1.704(d) states that an IDS will not be considered a failure to engage under (c)(8) if it is accompanied by a statement that "each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by an individual in 1.56(c) more than thirty days prior to the filing" of the IDS.[2] The IDSs filed on September 26, 2005 and February 20, 2006 did not contain a proper 37 C.F.R. § 1.704(d) statement. Accordingly, applicant delay with respect to these filing was correctly assessed as 49 and 26 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is zero (0) days (182 days of PTO delay, reduced by 403 (24+304+49+26) days of applicant delay).

---

[1] §1.135(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[2] Emphasis added.

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 19-1345, notwithstanding applicants' request that no fee be charged.[3]

The Office will forward the file to the Office of Patent Publication for issuance of the patent in a timely manner.

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

[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).

Pet. Dec.

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Mailed: 5/23/05

spg

In re application of
Tameka Spence et al.
Serial No. 10/039,237
Filed: December 31, 2001
For: PROCESS FOR MANUFACTURING A CELLULOSIC PAPER PRODUCT EXHIBITING REDUCED MALODOR

DECISION ON PETITION

This is a response to the PETITION REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT OF A PATENT APPLICATION UNDER 37 C.F.R. §1.181(a) filed December 17, 2004 and resubmitted February 17, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 9, 2004, for failure to timely file a proper reply to the Office letter mailed on May 11, 2004 be withdrawn since the applicants did timely file a reply on August 9, 2004. (A copy of the reply filed August 9, 2004 is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the reply was properly filed on August 9, 2004, by facsimile transmission as evidenced by the copy of the Facsimile Transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number, of 11 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper reply to the Office letter mailed May 11, 2004 is hereby vacated and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed August 9, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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Mailed: 6/17/05

In re application of	:	
Spence et al.	:	DECISION ON
Serial No. 10/039,237	:	PETITION
Filed: December 31, 2001	:	
For: PROCESS FOR MANUFACTURING A CELLULOSIC	:	
PAPER PRODUCT EXHIBINT REDUCED MALDOR	:	

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed December 17, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of December 9, 2004, for failure to timely file a proper reply to the Office letter mailed May 11, 2004 be withdrawn since applicants did timely file a reply on August 9, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the petitioner filed a facsimile reply, Amendment C, on August 9, 2004. The evidence provided includes a copy of the facsimile transmission with the completed Certification of Facsimile Transmission attached to Amendment C, which was filed to the USPTO facsimile telephone number 703-872-9306 on August 9, 2004. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed May 11, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry and processing and consideration of the reply originally filed August 9, 2004.

The Petition is **GRANTED**.

Jacqueline Stone, Director
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Paper No. 5

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SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of
Li et al.
Application No.10/039,242
Filed: December 31, 2001
Attorney Docket No. 00-17

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 13, 2002, under 37 C.F.R. §1.47(a) (certificate of mailing date August 6, 2002).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on December 31, 2001, without an executed oath or declaration. Accordingly, on February 6, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 6, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, a statement from Abigail Murphy of WaveSplitter Technologies, inc, and a partially executed declaration. To make timely a request for a four (4) month extension of time was submitted with the petition.

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

The instant petition does not satisfy requirement (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor

refused to sign the declaration after having been presented with the application papers (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(d). The statement of Abigail Murphy states efforts were made to obtain the signature of inventor Kevin Sullivan on the declaration and the assignment document. However, there is no indication application papers (specification, including claims, drawings, and oath or declaration) were mailed to inventor Sullivan. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor.

Thus on renewed petition, rule 47 applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

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. Shaun Wells for

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

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Paper No. 7

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OFFICE OF PETITIONS

In re Application of
Yuan Li, Yan Wang, Robert John Shine
and Kevin Sullivan
Application No.10/039,242
Filed: December 31, 2001
Attorney Docket No.00-17

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 30, 2003.

The petition is GRANTED.

Rule 47 applicant has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Dr. Sheau Chen, President and CEO of WaveSplitter Technologies, Inc states copies of the application were mailed via federal express to the non-signing inventor. The non-signing inventor's failure to respond to the application sufficiently establishes that the inventor 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.

Pursuant to petitioner's request deposit account 50-1047 has been charged $725.00 towards the four month extension of time.

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

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Kevin Sullivan
616 Lonsdale Avenue
Fremont, CA 94539

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MAR 2 5 2003

OFFICE OF PETITIONS

In re Application of
Yuan Li, Yan Wang, Robert John Shine and
Kevin Sullivan
Application No.10/039,242
Filed: December 31, 2001
Attorney Docket No. 00-17
Title of Invention: WIDE PASSBAND OPTICAL INTERLEAVER

LETTER

Dear Mr. Sullivan:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petition Attorney
Office of Petitions

Karin L. Williams
MAYER, FORTKORT & WILLIAMS, PC
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WESTFIELD, NJ 07090

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Paper 4

Roy Weinstein
4368 Fiesta Lane
Houston, TX 77004

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MAR 2 9 2004

OFFICE OF PETITIONS

In re Application of
Roy Weinstein
Application No. 10/039,257
Filed: December 31, 2001
Title of Invention: CHEMICAL PINNING CENTERS FOR HIGH TEMPERATURE SUPERCONDUCTORS

DECISION ON PETITION

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

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on March 26, 2002. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 27, 2002. A Notice of Abandonment was mailed on December 17, 2003.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the substitute drawings.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Fish and Richardson PC
225 Franklin Street
Boston, MA 02110

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APR 29 2005

OFFICE OF PETITIONS

In re Application of :
Ian Richard Aldred :
Application No. 10/039,280 : DECISION ON PETITION
Filed: January 2, 2002 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 13804-002001/HH/MC/P717 :

This is a decision on the petition under 37 CFR 1.55(c), filed June 21, 2004, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign Great Britain Application No. 0130324.7, filed December 19, 2001.

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 (ADS) (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign 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. 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 pending nonprovisional application was filed on January 2, 2002, which is after November 29, 2000 and within 12 months of December 19, 2001 (the filing date of the foreign application to which benefit is now being claimed). However, petitioner has not provided an executed oath/declaration or an ADS, which identifies the foreign application for which priority is claimed by application number, country and filing date.

Since an executed oath/declaration or an ADS that identifies the foreign application for which priority is claimed has not been received, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **DISMISSED**.

The claim for priority cannot be accepted until a proper oath/declaration or ADS is submitted to the Office.

The application will remain in the Office of Petitions for TWO (2) MONTHS to await petitioners' reply to this decision. If a reply is not received within TWO (2) MONTHS of the mailing date of this decision, the priority claim will be considered waived, and the application will be referred to Technology center 2600 for continued prosecution.

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 (703) 872-9306.

Any inquiries directly pertaining to this matter may be directed to Marianne Jenkins at (571) 272-3223.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FISH AND RICHARDSON PC
225 FRANKLIN STREET
BOSTON, MA 02110

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of
Ian Richard Aldred
Application No. 10/039,280
Filed: January 2, 2002
Attorney Docket No. 13804-002001/HH/MC/P7174US

: DECISION ON PETITION
: UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed July 29, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to Great Britain Application No. 0130324.7, filed December 19, 2001.

The petition is **GRANTED**.

This 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. 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).

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 above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on January 2, 2002, which is after November 29, 2000 and within 12 months of December 19, 2001 (the filing date of the foreign application to which benefit is now being claimed). On July 29, 2005, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,330 was received with the petition of June 21, 2004. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) 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 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(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 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 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 foreign application, accompanies this decision on petition.

The $65 surcharge fee submitted with the petition is unnecessary, since this fee was previously paid on March 15, 2002 in reply to a Notice to File Missing Parts of Nonprovisional Application. Accordingly, this fee will be refunded to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 2612 for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3218.

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
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/039,280	01/02/2002	2612	509	13804-002001 / HH/MC/P717	2	22	4

CONFIRMATION NO. 8327

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

CORRECTED FILING RECEIPT

OC000000020042273

Date Mailed: 08/16/2006

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)

Ian Richard Aldred, Rickmansworth, UNITED KINGDOM;

Power of Attorney:

Eric Prahl--32590
Frank Occhiuti--35306
John Hayden--37640
Jan Rohlicek--43349

Domestic Priority data as claimed by applicant

Foreign Applications

UNITED KINGDOM 0130324.7 12/19/2001
If Required, Foreign Filing License Granted: 02/12/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/039,280

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Detector device

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK NY 10022

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of	
Stephenson, et al.	
Application No. 10/039,296	DECISION GRANTING
Filed: October 19, 2001	STATUS UNDER 37 CFR
Atty. Dkt. No.: 054998/0002	1.47(a)
Title: NON-VOLATILE MAGNETIC MEMORY DEVICE	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed March 27, 2003 and supplemented June 10, 2003.

The petition is **GRANTED**.

Petitioner has shown that inventors James C. Stephenson and Daniel Carothers have 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 Brown/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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www.uspto.gov

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JUN 30 2003

OFFICE OF PETITIONS

JAMES STEPHENSON
1368 LINDA ROSA AVENUE
SALT LAKE CITY, UTAH 84106

In re Application of :
Stephenson, et al. :
Application No. 10/039,296 : LETTER
Filed: October 19, 2001 :
Atty. Dkt. No.: 054998/0002 :
Title: NON-VOLATILE MAGNETIC MEMORY :
DEVICE :

Dear Sir:

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK NY 10022

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OCT 28 2002

OFFICE OF PETITIONS

In re Application of :
Stephenson, et al. :
Application No. 10/039,296 : DECISION REFUSING
Filed: October 19, 2001 : STATUS UNDER 37 CFR
Atty. Dkt. No.: 054998/0002 : 1.47(a)
Title: NON-VOLATILE MAGNETIC :
MEMORY DEVICE :

This decision is in response to the petition under 37 CFR 1.47(a), filed September 13, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 19, 2001 without an executed oath or declaration and naming James Stephenson, Bruce Shipley, and Dan Carothers as joint inventors. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 14, 2002 requiring, among other items, an executed oath or declaration and a surcharge.

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

The instant petition lacks item (1) set forth above. Petitioner has failed to establish that the inventors received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration.

The declaration of Manoj Punit indicates that on May 17, 2002, the inventors were sent a Declaration and Power of Attorney and an Assignment for execution. Declarant states the refusal of inventor James Stephenson to execute the declaration was expressed in a letter from the inventor's legal representative. Declarant also indicates that inventor Dan Carothers indicated an intent to sign the declaration but to date no executed declaration has been received.

Application No. 10/039,296

Petitioner is reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors. Petitioner has presented no evidence that the non-signing inventors were ever presented with a complete copy of the application papers (specification, claims, drawings, oath or declaration) for the instant application.

Any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventors were sent a complete copy of the application papers and thereafter refused to execute the declaration. A copy of the application papers should be sent to the last known address of the non-signing inventors, or, if the non-signing inventors are represented by counsel, to the address of the non-signing inventors' attorney. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventors receive the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on 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 regarding this decision should be directed to the undersigned at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 6

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Clark et al.	:	
Application No. 10/039,311	:	DECISION GRANTING
Filed: October 26, 2001	:	PETITION
Attorney Docket No. 70625	:	

This is a decision on the petition filed June 4, 2002, to establish that page 57 of the specification was part of the originally filed application. This is also a decision on the petition under 37 CFR 1.47(a) filed October 26, 2001.

The petition under 37 CFR 1.53 to accept page 57 is **granted**.

The petition under 37 CFR 1.47 is **dismissed**.

The petition under 37 CFR 1.53

On October 26, 2001, the application was filed.

On April 1, 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 October 26, 2001, and advising applicants that page 57 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 57 was deposited on October 26, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Specification and 37 claims (62 pages)" on October 26, 2001.[1] Petitioner has also submitted a copy of the missing documentation- page 57 of the specification.

Upon review of the record, page 57, deposited on October 26, 2001, has not been located. However, the evidence is convincing that the application papers deposited on October 26, 2001, included page 57, and that page 57 was subsequently misplaced in the PTO.

In view of the above, the petition is granted. The copy of page 57 submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

---

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

The Notice mailed April 1, 2002, was sent in error and is hereby vacated.

Upon the granting of a petition under 37 CFR 1.47, the Application will be returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using the application papers filed on October 26, 2001, and the copy of page 57 of the specification filed on June 4, 2002.

The petition under 37 CFR 1.47

The petition under 37 CFR 1.47 is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1).

As to item (1), petitioner must establish that the non-signing inventor refused to sign the oath or declaration after being presented with the application papers. Petitioner has failed to establish that the non-signing inventor was presented with a copy of the application. An inventor cannot sign a declaration stating he or she has "reviewed and understands the application papers" when the inventor has not been presented with a copy of the application and therefore has not reviewed the application. Refusal within the meaning of 37 CFR 1.47 requires that the inventor be presented[2] with the application papers and given adequate time to review the contents of the application. Until the inventor reviews the papers and reads the specification and claims, he cannot know if he is actually an inventor of the claimed invention. Petitioner should send a copy of the application to the inventor along with instructions 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.

The petition fee of $130 was charged to petitioner's deposit account on June 7, 2002.

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

Petitioner should note that ambiguity seems to exist in regards to parent application no. 09/326,128. The petition in the instant file seems like it may be addressed to the parent

[2] It is not sufficient for an applicant to simply make the papers available. See MPEP, Section 409.03(d).

application and not the instant application. A review of office computer records fails to indicate that a Rule 47 petition has been filed in the parent application even though such review indicates that a petition fee of $130 has been received for the parent application. Review of Office computer records indicates that the parent application is currently pending. If an oath or declaration signed by all of the inventors has been filed in the parent application, then petitioner may simply file a copy of such oath or declaration as a part of the instant application. If a petition under 37 CFR 1.47 was filed and granted in the parent application, and such papers were not entered into the computer system, then petitioner may simply file a copy of the decision as a part of the child application. If petitioner has filed a petition under 37 CFR 1.47 in the parent application, but has not received a decision, then petitioner may wish to send a copy of the petition, and any desired supplement to the petition, by facsimile transmission to the Office of Petitions at 703-308-6916, so that the Office of Petitions may consider the merits of the 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 facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

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CHICAGO, IL 60603-3406

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Clark et al. :
Application No. 10/039,311 : DECISION GRANTING
Filed: October 26, 2001 : PETITION
Attorney Docket No. 70625 :

This is a decision on the petition under 37 CFR 1.181 filed October 15, 2002.

On October 26, 2001, petitioner submitted a copy of a declaration from the parent application which was missing a signature of one of the inventors. Along with the declaration, a copy of the petition from the parent application was filed. The copy of the petition was construed as a petition for the current application. Petitioner states the papers were not intended as a petition and requests a refund of the $130 charged to petitioner's deposit account for the petition.

The petition is **granted**.

The petition fee of $130 will be credited to deposit account no. 06-1135.

The prior decision noted:

> Petitioner should note that ambiguity seems to exist in regards to parent application no. 09/326,128. The petition in the instant file seems like it may be addressed to the parent application and not the instant application. A review of office computer records fails to indicate that a Rule 47 petition has been filed in the parent application even though such review indicates that a petition fee of $130 has been received for the parent application. Review of Office computer records indicates that the parent application is currently pending. If an oath or declaration signed by all of the inventors has been filed in the parent application, then petitioner may simply file a copy of such oath or declaration as a part of the instant application. If a petition under 37 CFR 1.47 was filed and granted in the parent application, and such papers were not entered into the computer system, then petitioner may simply file a copy of the decision as a part of the child application. If petitioner has filed a petition under 37 CFR 1.47 in the parent application, but has not received a decision, then petitioner may wish to send a copy of the petition, and any desired supplement to the petition, by facsimile transmission to the Office of Petitions at 703-308-6916, so that the Office of Petitions may consider the merits of the petition.

Page 3 of the petition states, "A photocopy of said petition for "Filing on Behalf of a Nonsigning Inventor" was submitted with the present application merely as evidence that the petition was submitted and granted in the parent application."

When a child (continuing) application uses a prior parent's application's declaration and when a Rule 47 petition was granted in the prior application, then the continuing application must include a copy of decision letter from the parent application. See 37 CFR 1.63(d)(3)(I). A

petition in the child application is unnecessary and the copy of the decision may be filed with the Office of Initial Patent Examination.

Although petitioner states that the Rule 47 petition was granted in the parent application, petitioner has not submitted a copy of the decision granting the petition.

The file will now be forwarded to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001, using the application papers filed on October 26, 2001, and the copy of page 57 of the specification filed on June 4, 2002. In addition, the Office of Initial Patent Examination will mail a Notice of Missing Parts since a declaration in compliance with 37 CFR 1.63 has not been submitted and the petition under 37 CFR 1.47 has been "withdrawn."

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
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Paper No. 18

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET SUITE 1600
CHICAGO IL 60603

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MAR 2 0 2003

OFFICE OF PETITIONS

In re Application of
Reginald Wayne Clark,
James C. Lierman, Donald Lander
and Joseph E. Dunn
Application No. 09/326,168
Filed: June 4, 1999
Title: PARAMETRIC CONTROL IN PULSED LIGHT STERILIZATION

DECISION ACCORDING STATUS
UNDER 37 CFR § 1.47(a)

This is a decision on the petition under 37 CFR 1.47, filed November 12, 1999. This petition was considered in light of the supplemental evidence filed March 19, 2003. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application was filed on June 4, 1999, with an unexecuted declaration. Reginald Wayne Clark, James C. Lierman, Donald Lander and Joseph E. Dunn were named as joint inventors. Accordingly, on July 7, 1999, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring *inter alia* an executed oath or declaration and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

On November 12, 1999 (certificate of mailing November 8, 1999), applicants responded with a declaration executed by joint inventors Clark, Lierman and Lander on behalf of themselves and on behalf of non-signing inventor Dunn; the late surcharge under former § 1.16(e); and the instant petition (and petition fee). This reply was made timely by an accompanying petition and fee for an extension of time for response within the second month.

Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Dunn refuses to join in the application for patent. 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.

By statement of facts of Carrie Merzbacher and supporting documentary evidence, petitioner has shown that inventor Dunn has

Received from < 805 541 2868 > at 4/18/03 2:02:33 PM [Eastern Daylight Time]

refused to join in the application after having been presented with the application papers. Petitioner has provided a copy of the cover letter showing transmittal of the application papers to inventor Dunn on August 13, 1999. Further, by her statement, Ms. Merzbacher details a subsequent telephone conversation in which Dr. Dunn orally refused to join in the application.

The declaration filed November 12, 1999 (certificate of mailing November 8, 1999), and the petition have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

The application file is being returned to the Publishing Division for processing into a patent[1].

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

FAX RECEIVED
APR 18 2003
TECHNOLOGY CENTER 2800

[1] Prosecution of this application occurred prior to a decision being rendered on the petition under § 1.47.

Received from < 805 541 2868 > at 4/18/03 2:02:33 PM [Eastern Daylight Time]

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/29/09 **Paper No.:** _____

TO SPE OF : ART UNIT 2619 (Joseph H Feild)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/039324 Patent No.: 7035625

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. Can these drawings be approved

HENRY RANDALL
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: _____

_____

_____

_____

_____

_____ _____
SPE Art Unit

OIPE IAP12
MAY 12 2006
PATENT & TRADEMARK OFFICE

Cofc

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Rindsberg et al.

Patent No. : 7,035,628 B2 Application No. 10/039,324

Issued : April 25, 2006 Filed: December 31, 2001

For : METHOD AND APPARATUS FOR CONTENT BLOCKING

TRANSMITTAL LETTER

Certificate
MAY 17 2006
of Correction

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

Sir:

Please find enclosed for filing:

- Request for Certificate of Correction or Corrected Patent, with form PTO/SB/44
- Return Receipt Postcard

Please charge any deficiencies or credit any overpayment to Deposit Account No. 09-0461.

Respectfully submitted,

Dated: May 9, 2006

Pablo Meles, Reg. No. 33,739
AKERMAN SENTERFITT
Customer Number 55794
P.O. Box 3188
West Palm Beach, FL 33402-3188
Tel: 954 463-2700

Docket No. 7042-10

Certificate Under 37 CFR § 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

May 9, 2006
Date

Pablo Meles, Reg. No. 33,739

MAY 17 2006

OIPE
MAY 12 2006
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Rindsberg et al.

Patent No. : 7,035,628 B2 Application No. 10/039,324

Issued : April 25, 2006 Filed: December 31, 2001

For : METHOD AND APPARATUS FOR CONTENT BLOCKING

REQUEST FOR CERTIFICATE OF CORRECTION OR FOR CORRECTED PATENT

UNDER RULE 1.322 (4)(b)

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

Sir:

The undersigned, on behalf of the Applicants, respectfully requests that a Certificate of Correction or a Corrected Patent be issued on the above-identified patent.

The requested correction is indicated, in appropriate form, on attached PTO/SB/44 form, submitted in duplicate. The error is the following:

The drawings included in the issued Patent No. 7,035,628 have been inadvertently mixed up with another case (pending Application No. 10/036,870) by the Office and have unfortunately issued with the wrong drawings. The appropriate drawings are those filed on December 31, 2001 and accepted by Examiner Danh C. Le as indicated in Office Action mailed on August 23, 2003. A copy of the correct drawings is attached hereto.

Hence, it is respectfully requested that the Commissioner issue, in accordance with 37 C.F.R. § 1.322, a Certificate of Correction, although the Applicants respectfully believe the error on the part of the Office is of a nature that the Director or Commissioner should issue a corrected patent in lieu of a Certificate of Correction as a more appropriate form for the Certificate of Correction as provided under 37 C.F.R. § 1.322 (4)(b).

No fees are believed necessary, however, please charge any deficiency of fees to Deposit Account No. 50-0951.

Respectfully submitted,

Dated: May 9, 2006

Pablo Meles, Reg. No. 33,739
AKERMAN SENTERFITT
Customer Number 55794
P.O. Box 3188
West Palm Beach, FL 33402-3188
Tel: 954 463-2700

APPROVED: /W.T./

APPROVED: /D.L./

Docket No. 7042-10

Certificate Under 37 CFR § 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

May 9, 2006
Date

Pablo Meles, Reg. No. 33,739

MAY 17 2006

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,035,628 B2

APPLICATION NO.: 10/039,324

ISSUE DATE : April 25, 2006

INVENTOR(S) : RINDSBERG et al

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

Please replace drawings of the issued patent with the (attached) set of drawings filed on December 31, 2001, and accepted by the examiner ~~Danh C. Le~~ in the Office Action mailed on August 23, 2003.

APPROVED: /D.L./

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Akerman Senterfitt
P.O. Box 3188
West Palm Beach, FL 33402-3188

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

MAY 17 2006

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MAY 12 2006
PATENT & TRADEMARK OFFICE

FIG. 1

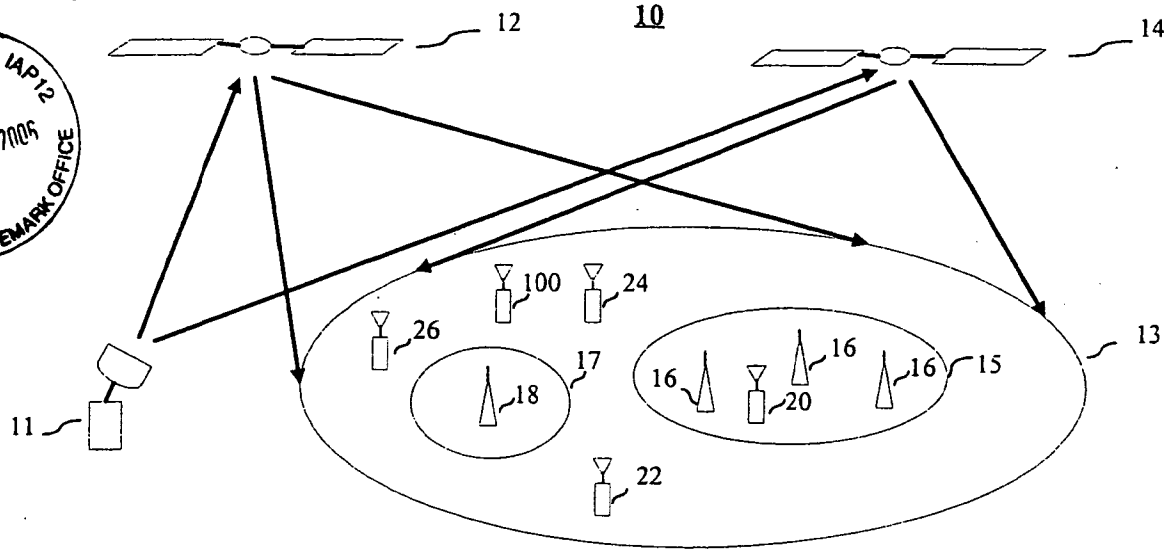


FIG. 2

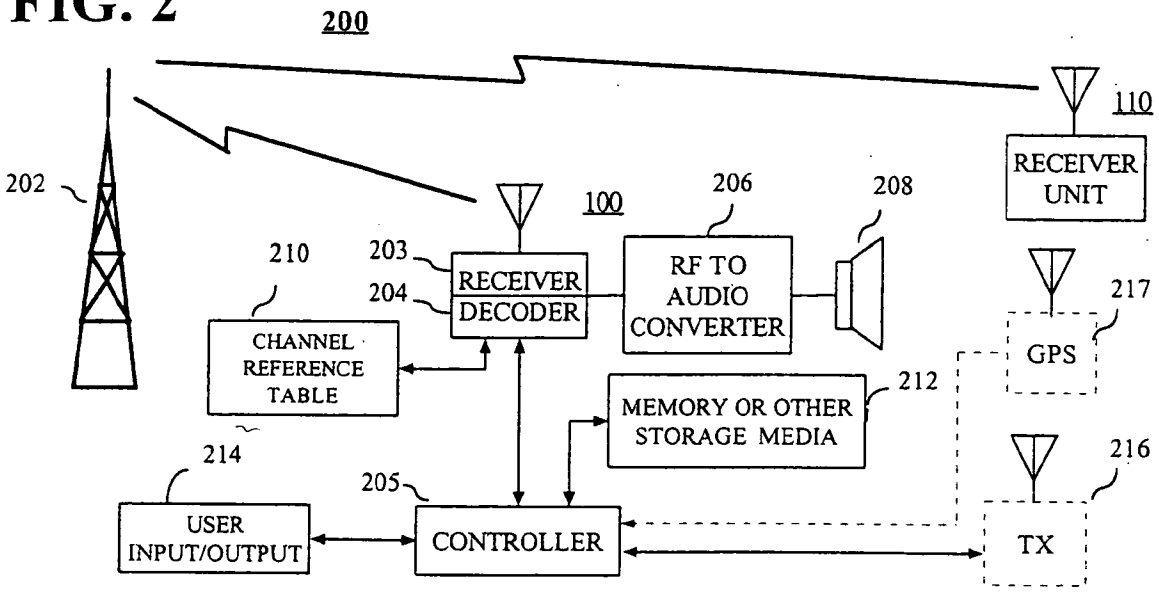
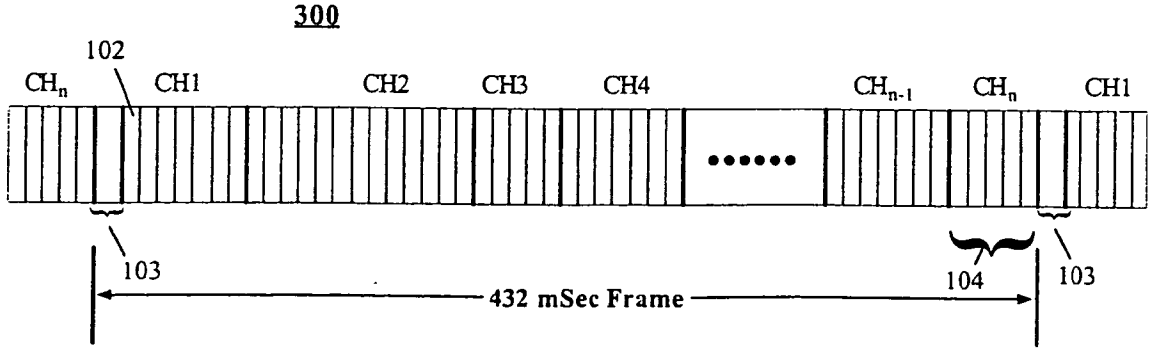


FIG. 3



APPROVED: /D.L./

OIPE IAP12 MAY 12 2006 PATENT & TRADEMARK OFFICE

FIG. 4

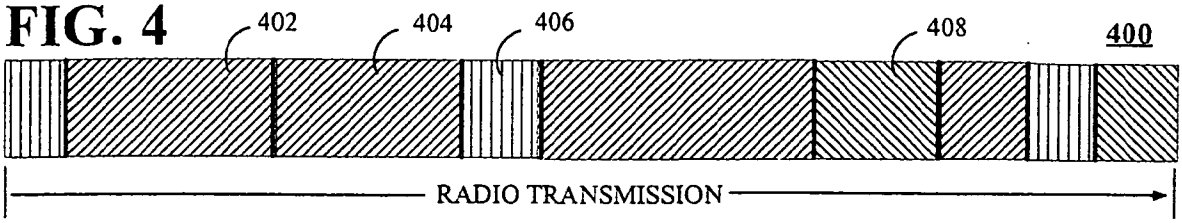


FIG. 5

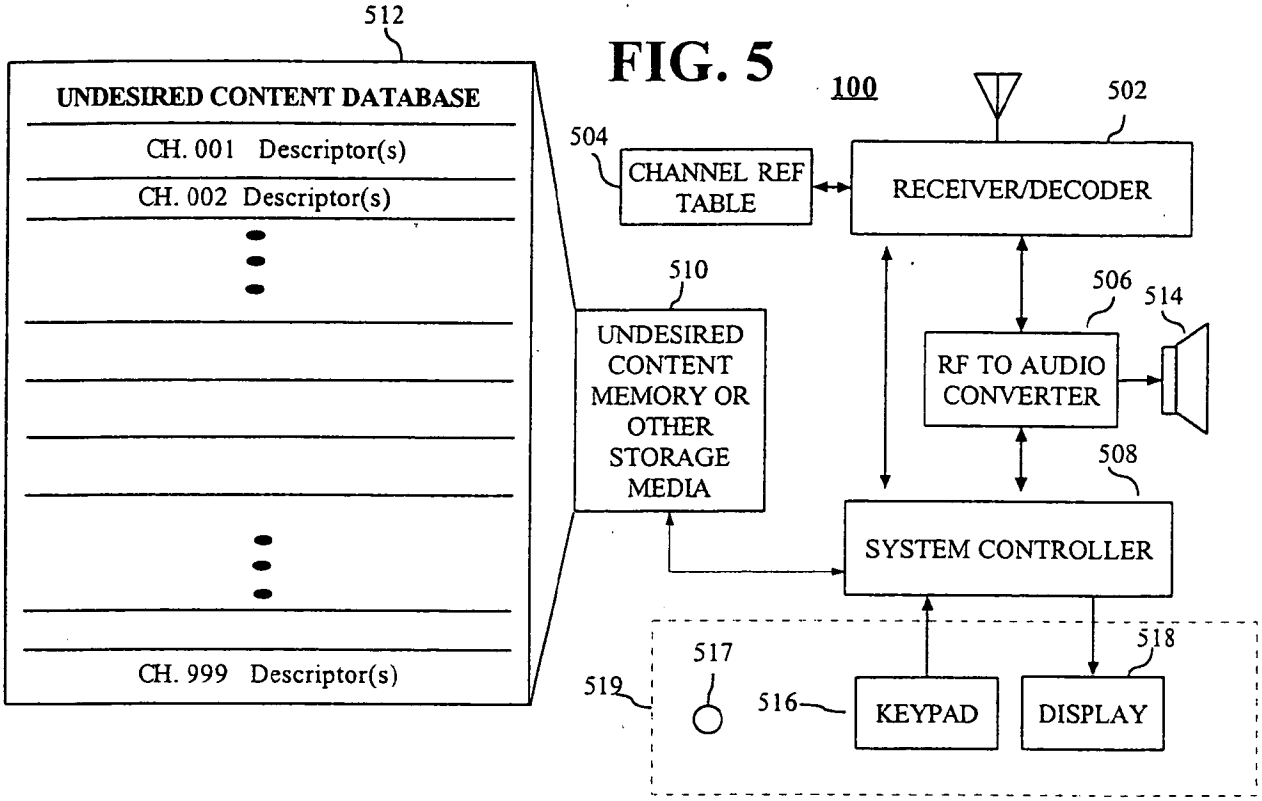


FIG. 6 504

CHANNEL	ARTIST	ALBUM	TITLE	RATING	TIER	GUEST	HOST	LOCATION
1	GERSHWIN		RHAPSODY	A	PREMIUM			EAST
2			TALKSHOW	B	BASIC	RUSH	BUSH	ALL SOUTH
3	OUTKAST		STANKONIA	D-	PREMIUM			S.Florida
4	BCH BOYS			ALL AUDS	BASIC			S.Cal
5	OLD DIRTY			ADULTS ONLY	BASIC			Don't Care
6	RAFFI		BELUGA	KIDS ONLY	BASIC			Don't Care
7	CREED		HUMAN CLA	B	BASIC			Don't Care
8			TALKSHOW	B-	BASIC	KING	OPRAH	Don't Care
9			MIA v. DC		PREMIUM		NFL	Not S.Fla.
.								
.								
.								
N	MADONNA		MUSIC	C	BASIC			

APPROVED: /D.L./ 2006

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ENT & TRADEMARK OFFICE

FIG. 7

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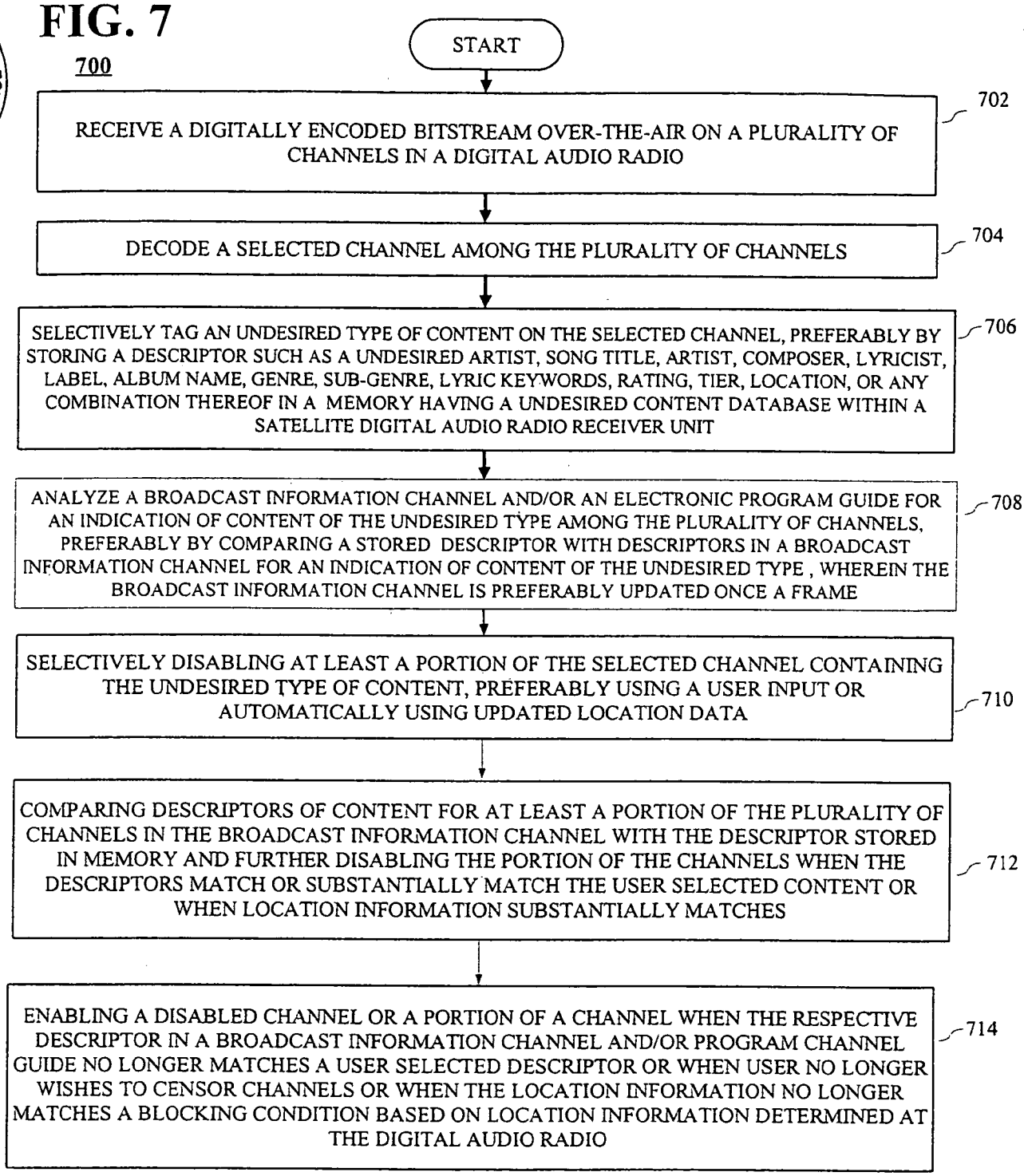
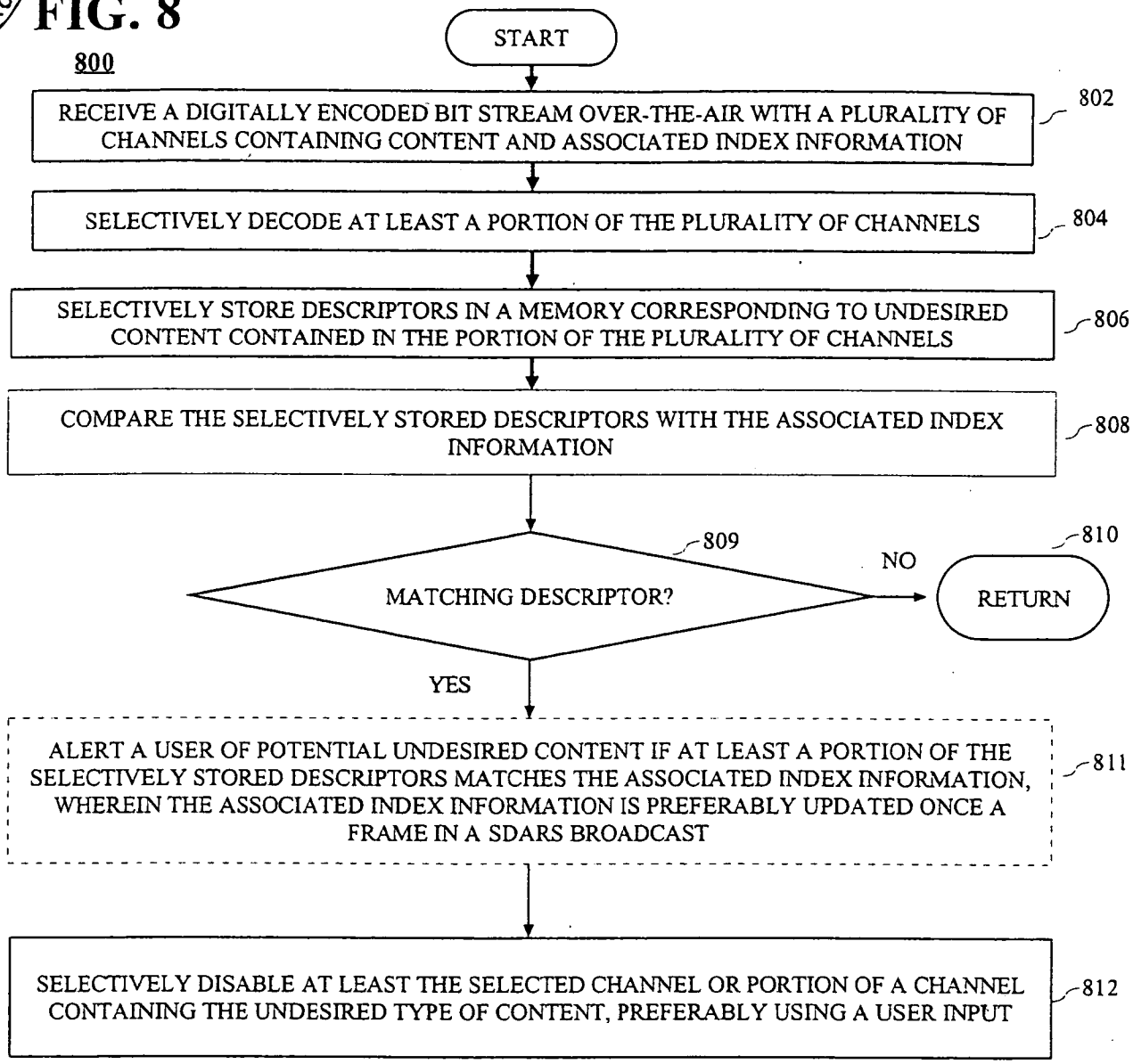


APPROVED: /D.L./

MAY 17 2006

MAY 12 2006
PATENT & TRADEMARK OFFICE

FIG. 8



APPROVED: /D.L./

MAY 17 2006

MAY 12 2006
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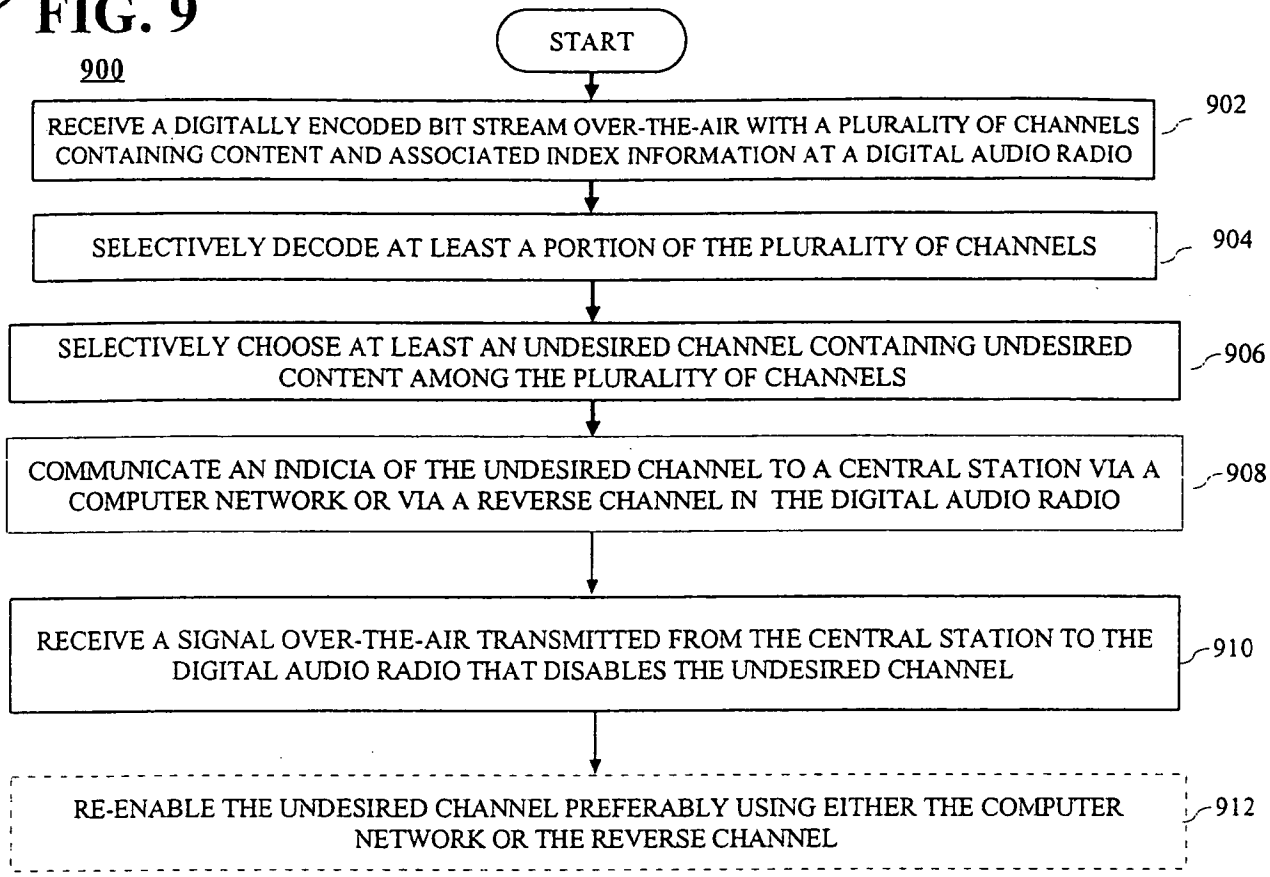
FIG. 9



APPROVED: /D.L./

MAY 1 [illegible] 2006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080924

DATE : September 24, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7035628

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Dwayne D Bost/
Supervisory Patent Examiner.Art Unit 2617

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080918

DATE : October 13, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7035628

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

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

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

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

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: /Dwayne D. Bost/ **Art Unit** 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Akerman, Senterfitt & Eidson, P.A.
Post Office Box 3188
West Palm Beach FL 33402-3188

COPY MAILED

OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
MARKO, et al. :
Application No. 10/039,348 : DECISION DISMISSING PETITION
Filed: December 31, 2001 : UNDER 37 CFR 1.313(a)
Attorney Docket No. 7042-2 :

This is a decision on the petition under 37 CFR 1.313(a), filed October 5, 2006, to withdraw the above-identified application from issue.

The petition is **DISMISSED AS MOOT** since this application is now abandoned for failure to timely pay the issue and publication fees on or before October 12, 2006 as required by the Notice of Allowance and Fee(s) Due, mailed July 12, 2006.

Petitioner should note that the mere filing of a petition to withdraw from issue does not stay the period for paying the fees required by the Notice of Allowance and Fee(s) Due. Unless an applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue and publication fees must be timely submitted to avoid abandonment. *Note* MPEP § 1308(I)(A).

In view of the above, the petition to withdraw from issue must be dismissed as involving a moot issue.

Petitioner may wish to consider filing a petition under 37 CFR 1.137 to revive this application.

Inquiries concerning this decision may be directed to Monica A. Graves at (571) 272- 7253.

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

AKERMAN, SENTERFITT & EIDSON, P.A.
POST OFFICE BOX 3188
WEST PALM BEACH FL 33402-3188

COPY MAILED

MAR 29 2007

OFFICE OF PETITIONS

In re Application of :
Paul Marko et al :
Application No. 10/039,348 : DECISION GRANTING PETITION
Filed:December 31, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 7042-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2006, 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 the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of July 12, 2006 is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication via Technology Center AU 3662 for review of the amendment submitted with the petition on November 21, 2006.

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

RICHARD K. WARTHER, ESQUIRE
ALLEN DYER DOPPELT MILBRATH & GILCHRIST PA
P O BOX 3791
ORLANDO, FL 32802-3791

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Edward H. Tegge, Jr., et al :
Application No. 10/039,382 : DECISION GRANTING PETITION
Filed: October 29, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. GCSD-1170 (51233) :

This is a decision on the petition, filed September 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 12, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the 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

Paper No. 10

WYETH
PATENT LAW DEPARTMENT
FIVE GIRALDA FARMS
MADISON, NJ 07940-0874

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JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of
Chu et al.
Application No. 10/039,383
Filed: January 8, 2002
Attorney Docket No. AM100249

ON PETITION

This decision concerns the May 13, 2003 petition under 37 CFR 1.10(d), which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **DISMISSED.**

The petition requests a filing date of December 17, 2001, rather than the presently accorded filing date of January 8, 2002, alleging that the application was deposited on December 17, 2001 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" ("Express Mail") service pursuant to the requirements of 37 CFR 1.10.

Under 37 CFR 1.10(c), any person filing correspondence that was received by the PTO and delivered by the "Express Mail" service may petition the Commissioner if there is a discrepancy between the filing date accorded by the PTO 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. However, such a petition must **include**, *inter alia*, **a true copy of the "Express Mail" mailing label indicating the "date-in" or other official notation by the USPS relied upon to show the date of deposit.**[1] The instant petition lacks such a copy of "Express Mail" mailing label.

Moreover, while the application transmittal bears an "Express Mail" mailing label number EL783017014 US and contains a December 17, 2001 Certificate of Mailing by "Express Mail", such a Certificate of Mailing in accordance with 37 CFR 1.10, without more, merely indicates an intent to deposit the application papers in the USPS "Express Mail" service on that day.

In view of the above, the petition is dismissed.

No petition fee is owed. The $130 charged to Deposit Account No. 01-1300 has been reversed.

Finally, the associate power of attorney enclosed with the petition has been entered and made of record.

The application is being returned to Technology Center 1600 to await a response to the January 7, 2003 non-final Office action.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

---

[1] See also MPEP section 513 (Rev. 1, Feb. 2003).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIVV 08-04

Paper No. 15

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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SEP 0 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Chu et al.	:	
Application No. 10/039,383	:	DECISION DISMISSING
Filed: 8 January, 2002	:	PETITION
Attorney Docket No. AM100249	:	

This is a decision on the petition, filed on 4 August and supplemented on 16 October, 2003, styled under 37 CFR 1.10(d), which is treated as a petition requesting reconsideration of the decision mailed on 3 June, 2003, and requesting that the above-identified application be accorded a filing date of 17 December, 2001, rather than the presently-accorded filing date of 8 January, 2002.

The Office apologizes for the delay in responding to the present petition.

The petition is again dismissed.

Petitioners allege that the application was deposited in Express Mail service on 17 December, 2001.

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 (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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 papers or fees 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.

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

[1] See 37 CFR 1.6(a).

> 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.

In regards to paragraph (3) of 37 CFR 1.10(c) above, petitioners have not submitted a true copy of the "Express Mail" mailing label showing the "date-in" and any other official notation by the USPS relied upon to show the date of deposit.

Further, in regard to 37 CFR 1.10(d), petitioners have not presented corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for that day. If the error was due to the USPS entering the wrong date on the Express Mail label, petitioners should request a letter from the USPS stating that the correct date of deposit is 17 December, 2001, and explaining why the error occurred. Additionally, petitioners may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application.

In this regard, the affidavits of counsel's secretary, Ms. Terry Mancuso, is insufficient as proof that the application was deposited on 17 December, 2001, because the affidavit was made more than one business day after the date the application was purportedly deposited in Express Mail. Furthermore, petitioners have not shown that a mail log exists containing an entry made after and within one business day of the date of deposit of the application in Express Mail.

It is suggested that petitioners obtain a statement from the USPS stating that the correct date of deposit of the Express Mail envelope in question (*i.e.*, EL783017014US) was deposited in

Express Mail Post Office to Addressee Service on 17 December, 2001. This statement should be provided with any renewed petition.

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:

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

The address listed on the petition filed on 16 October, 2003, 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.

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

cc: Anne M. Rosenblum
163 Delaware Avenue, Suite 212
Delmar, NY 12054

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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DEC 13 2004

OFFICE OF PETITIONS

In re Application of	:	
Chu et al.	:	
Application No. 10/039,383	:	DECISION GRANTING
Filed: 17 December, 2001	:	PETITION
Attorney Docket No. AM100249	:	

This is a decision on the twice renewed petition, filed on 1 November, 2004, styled under 37 CFR 1.10(d), which is treated as a petition requesting reconsideration of the decision mailed on 1 September, 2004, and requesting that the above-identified application be accorded a filing date of 17 December, 2001, rather than the presently-accorded filing date of 8 January, 2002.

The petition is granted.

Petitioners allege that the application was deposited in Express Mail service on 17 December, 2001.

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 (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show 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 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 papers or fees 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.

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

[1] See 37 CFR 1.6(a).

> 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 renewed petition is accompanied by a letter from Dennis M. Allocco, Postmaster of the Morristown, NJ Post Office stating that he has been provided evidence by petitioners which suggests that Express Mail shipment EL783017014US was deposited with the USPS on 17 December, 2001.

In view of the evidence present in the file, it is concluded that the correct date of deposit in Express Mail is 17 December, 2001. Therefore, the application is entitled to a filing date of 17 December, 2001.

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 the Office of Initial Patent Examination for correction of the filing date to 17 December, 2001, and issuance of a corrected Filing Receipt.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Anne M. Rosenblum
163 Delaware Avenue, Suite 212
Delmar, NY 12054

UNITED STATES 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

AdVantage Partners IP, LLC
P.O. Box 910377
San Diego, CA 92121-0377

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MAR 3 1 2004

OFFICE OF PETITIONS

In re Application of
Backus et al.
Application No. 10/039,395
Filed: November 7, 2001
Attorney Docket No. 45891/GSL/A641

DECISION 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.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of February 25, 2003. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 26, 2003. A Notice of Abandonment was mailed on September 5, 2003.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR §10.18(b). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being forwarded to Technology Center 1700 for further processing of the Request for Continued Examination (RCE) and the amendment submitted with the instant petition.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: William J. Kolegraff
3119 Turnberry Way
Jamul, CA 91935

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADVANTAGE PARTNERS IP, LLC
P. O. BOX 910377
SAN DIEGO, CA 92121-0377

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Alan L. Backus, et al. :
Application No. 10/039,395 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 45891/GSL/A641 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The issue fee has been received however; there is no indication that corrected formal drawings as required by the Notice of Allowability dated April 20, 2004, was submitted with the instant petition. This application cannot be revived until corrected formal drawings have been submitted. For applicant's convenience, a copy of the notice of draftsperson's patent drawing review dated April 14, 2004, is enclosed.

There is no indication that the petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned with the renewed petition.

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

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

Attachments to cc: Notice of Draftsperson's Patent Drawing Review and Blank Issue Fee Transmittal Form, PTOL-85b.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FEB 15 2006

OFFICE OF PETITIONS

GRANT T. LANGTON
JEFFER, MANGELS, BULTER & MARMARO LLP
1900 AVENUE OF THE STARS, SEVENTH FLOOR
LOS ANGELES, CA 90067

In re Application of :
Alan L. Backus, et al. :
Application No. 10/039,395 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No. 45891/GSL/A641 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 20, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 21, 2004.

A review of the record indicates that the applicant was inadvertently charged $1500 for the renewed petition and $1400 for the issue fee submitted on January 26, 2006. Since the petition and issue fees were previously paid on June 6, 2005, the current fees will be credited to applicant's deposit account.

In view of the submission of the petition fee in the large entity amount of $1,500, status as a small entity has been removed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Formal Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being referred to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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GRANT T. LANGTON
JEFFER, MANGELS, BULTER & MARMARO LLP
1900 AVENUE OF THE STARS, SEVENTH FLOOR
LOS ANGELES, CA 90067

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APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Alan L. Backus, et al. :
Application No. 10/039,395 : ON PETITION
Filed: November 7, 2001 :
Attorney Docket No.: 45891/GSL/A641 :

This is a decision on the petition, filed March 31, 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 June 6, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1761 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Paper No. 9

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUL 15 2003

OFFICE OF PETITIONS

In re Application of
Michael S. Foster and Michael A. Dorsett
Application No. 10/039,404
Filed: October 26, 2001
Attorney Docket No. 030048027US
Title: METHOD AND SYSTEM FOR INTERSWITCH LOAD BALANCING IN A COMMUNICATIONS NETWORK

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

This is a decision on the petition filed on June 13, 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 April 19, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

On May 6, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompianied by a notice of the foreign or international filing.

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

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

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

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such 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.

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

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

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

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)
6876491	2005-04-05	10039435	2002-01-03	2293P

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	/Joseph A. Sawyer, Jr./	Date (YYYY-MM-DD)	2009-05-28
Name	Joseph A. Sawyer, Jr.	Registration Number	30801

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. 6876491
Issue Date: April 5,2005
Application No. 10039435
Filed: January 3,2002
Attorney Docket No. 2293P

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

This is a decision on the electronic petition, filed May 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 28,2009 . 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. 7

SAM PASTERNACK, ESQ.
CHOATE, HALL & STEWART
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109

COPY MAILED

JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Silver et al. :
Application No. 10/039,448 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. 2001534-0017 (CIP) :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 17, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 25, 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 April 26, 2002. A Notice of Abandonment was mailed on April 16, 2004.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/039,470	11/09/2001	1731	1226	FXI01-03	12	33	6

CONFIRMATION NO. 1034

CORRECTED FILING RECEIPT

OC000000012113163

David E. Huang, Esq.
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, MA 01581

Date Mailed: 03/16/2004

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)

John P. Gagnon, Franklin, MA;
Todd Pihl, Uxbridge, MA;
Michael Quarrey, North Grafton, MA;
Charlie Thebeau, Lunenburg, MA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/13/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Techniques for making non-halogenated flame retardant cross-linked polyolefin material which is suitable for use in a cable

Preliminary Class

264

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

GRANTED

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

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

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

NOT GRANTED

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

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Paper No. 8

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WEST NYACK, NY 10994

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MAR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Wenzler, Thomas
Application No. 10/039,476
Filed: October 19, 2001
Attorney Docket No. 8053-P

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed November 15, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 16, 2003. A Notice of Abandonment was mailed on June 13, 2003.

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

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.

The file is now being forwarded to Technology Center 3711 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

cc: Christopher J. McDonald
HOFFMAN, WASSON & GITLER, P.C.
2361 Jefferson Davis Highway
Suite 522
Arlington, VA 22202

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WEST NYACK NY 10994

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Thomas Wenzler :
Application No. 10/039,476 :
Filed: October 19, 2001 :
Attorney Docket No. 8053-P :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

This application became abandoned on April 5, 2005, for failure to submit corrected drawings as required by the Notice of Allowability, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on August 3, 2005.

The Draftsperson approved the drawings filed on September 19, 2005. Additionally, petitioner paid the petition fee and made the proper statement of unintentional delay. Accordingly, petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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

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

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (703) 305-8497.

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

Christina T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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

Application Number	10/039,461
Filing Date	Sept. 6, 1993
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	600204464-9

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

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CENTRAL FAX CENTER
MAR 11 2005

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

- ☐ all the attorneys/agents of record.
- ☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number [ ]

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

The reasons for this request are:

Approved 5-8-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

CORRESPONDENCE ADDRESS

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

☑ The address associated with Customer Number: 022879

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone			Fax		
Signature	William H. Dippert				
Name	William H. Dippert, Esq.		Registration No.	26,723	
Date			Telephone No.	(212) 790-9200	

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

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

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

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Paper No. 6

PERKINS COIE
PATENT-SEA
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SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of :
Michael S. Foster et al :
Application No. 10/039,505 : DECISION GRANTING PETITION
Filed: October 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048025US :

This is a decision on the petition, filed June 13, 2003, under 37 CFR 1.137(f), and supplemented June 27, 2003, 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 April 19, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

The instant petition has been found 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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 9, 2003 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

Frances Hicks

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

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AUG 2 6 2003

OFFICE OF PETITIONS

Applicant: Han et al.
Appl. No.: 10/039,518
Filing Date: November 8, 2001
Title: METHOD AND APPARATUS FOR MULTIPLE BYTE OR PAGE MODE PROGRAMMING AND READING AND FOR ERASING OF A FLASH MEMORY ARRAY
Attorney Docket No.: 11030.02
Pub. No.: US 2002/0167844 A1
Pub. Date: November 14, 2002

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

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication omits the phrase "Claims" at the beginning of the claims section.

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

The omission of the phrase "Claims" at the beginning of the claims section of the publication is an Office mistake, but it is not a material error. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

---

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

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

By facsimile: 703-305-8568

The application is being forwarded to Technology Center 2818 to await further examination in due course.

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

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

cc
David Carroll
Altera Law Group
6500 City West Parkway, Suite 100
Minneapolis, MN 55344-7704

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ALTERA LAW GROUP
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

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APR 21 2004

OFFICE OF PETITIONS

In re Patent No. 6,731,544 :
Issue Date: May 4, 2004 :
Application No. 10/039,518 : NOTICE
Filed: November 8, 2001 :
Attorney Docket No. 11188.00 :

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 application file is being referred to Files Repository.

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

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Donald K. Wright, et al. :
Application No. 10/039,527 : DECISION ON PETITION
Filed: November 7, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 21276.01.9053 :

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 priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, 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.

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

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 submitted with the instant petition is unacceptable as drafted 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 instant 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.

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

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

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

Accordingly, before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement and stating the relationship of the prior-filed application to the instant application are required.

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

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

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

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

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

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

[1] *Note* 37 CFR 1.121

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222 N. LASALLE STREET
CHICAGO, IL 60601

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OFFICE OF PETITIONS

In re Patent No. 6,863,754	:	DECISION GRANTING PETITION
Issue Date: March 8, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/039,527	:	REQUEST FOR CERTIFICATE
Filed: November 7, 2001	:	OF CORRECTION
Attorney Docket No. 212760.091.9053	:	

This is a decision in response to the communication filed July 29, 2005 requesting, in effect, that a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on February 22, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 be rendered and that the claim for priority to prior-filed nonprovisional Application No. 09/415,696, filed October 12, 1999 be added to the front page of the Letter Patents by way of a Certificate of Correction.

A review of the record discloses that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was not made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and did not include a proper reference to the prior-filed application as required by 37 CFR 1.78a(2)(i) and 1.78(a)(2)(iii). On September 24, 2004 a petition under 37 CFR 1.78(a)(3) was filed; however, the petition was dismissed in a decision mailed January 14, 2005, since it did not include a proper reference to the prior-filed application. In response, on February 22, 2005, a renewed petition was filed, including an amendment in compliance with 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii). The application issued as U.S. Patent No. 6,863,754 on March 8, 2005. On June 6, 2005, a communication was mailed holding the decision on the renewed petition in abeyance to permit applicant to file a request for a Certificate of Correction. On July 29, 2005, the present communication was filed, along with a request for a Certificate of Correction.

Since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with the 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, Rev. 2, May 2004, page 1400-85, second column.

The renewed petition, as supplemented on July 29, 2005, complies with the requirements of 37 CFR 1.78(a)(3). Accordingly, the petition is **GRANTED**.

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

It is noted that petitioner argues that no fee for the Certificate of Correction should be required since the Requirement for Information stated that "the petition did not reach the appropriate official in sufficient time to avert the issuance of the application into the issued patent". Petitioner's argument is not well taken. Approximately two weeks existed between the filing of a grantable petition (the renewed petition) on February 22, 2005 and the date of issue of March 8, 2005. Consequently, the printing of the patent had already progressed to a point where the requested data could not be included in the printed patent. The $100 Certificate of Correction fee is required and is being charged to counsel's deposit account as authorized.

Any inquiries concerning this decision may be directed to Sherry Brinkley at (571) 272-3204.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

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

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

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :

Dietrich W. Schultz et al :
Application No. 10/039,536 : DECISION ON PETITION
Filed: January 4, 2002 : TO WITHDRAW
Attorney Docket No. 21540-05799 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Greg T. Sueoka, along with all of the other attorneys associated with Customer No. 00758 has been revoked by the assignee of the patent application on January 26, 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.

The application will be referred to Technology Center AU 2178 to await a reply to the Non-final Office action mailed January 30, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

Greg Wimmer
CFO
WaveMarket, Inc.
5858 Horton Street, Suite 250
Emeryville, CA 94608

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JUN 1 0 2004
OFFICE OF PETITIONS

In re Application of :
Philip N. Klein, et al. :
Application No. 10/039,539 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. M-12506 US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
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Paper No. 6

MELVIN K. SILVERMAN
500 WEST CYPRESS CREEK ROAD
SUITE 500
FORT LAUDERDALE, FL 33308

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AUG 1 3 2003

OFFICE OF PETITIONS

In re Application of
Frank D'Andrea
Application No. 10/039,555
Filed: January 8, 2002
Attorney Docket No. 1303.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 2, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 3, 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 2800 for further processing.

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

02 MAR 2005

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Kevin M. Kercher
BLACKWELL SANDERS PEPER MARTIN LLP
720 Olive Street, Suite 2400
St. Louis, MO 63101

In re Application of :
STRINGER, Andrew Mark :
Application No.: 10/039,565 :
Filing Date: 21 December 2001 : **DECISION**
Attorney Docket No.: 717901.20 :
For: COMPUTER NETWORK PAYMENT :
SYSTEM :

This decision is in response to applicant's "Petition for Correction of National Phase Filing for Status for a Patent Application under 37 C.F.R. Section 1.182" filed on 19 February 2002. The $130.00 petition fee has been paid.

BACKGROUND

On 21 December 2001, applicant filed a transmittal letter for a patent application in the United States which was accompanied by, *inter alia*, a $370.00 utility filing fee. The application was processed as a filing under 35 U.S.C. 111(a).

On 14 February 2002, the United States Patent and Trademark Office mailed "Notice to File Missing Parts of Nonprovisional Application" indicating that the declaration in compliance with 37 CFR 1.63 along with a $65.00 surcharge fee was required.

On 19 February 2002, applicant filed the instant petition to convert.

On 26 February 2002, applicant filed an executed declaration and power of attorney.

DISCUSSION

In the papers filed 19 February 2002, applicant requests to convert the above-captioned application to a U.S. National Phase application of PCT/GB00/02413.

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 (April 14, 1987) entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371, (the National Stage of PCT)" states, in part, that: "[i]f there are any conflicting instructions as to which section of the statute

(371 or 111) is intended the application will be accepted under 35 U.S.C. 111."

A review of the subject application shows that the transmittal letter filed 21 December 2001 did not request treatment under 35 U.S.C. 371. The transmittal letter states that it is "[o]nly for new nonprovisional applications under 37 CFR 1.53(b)." Hence, the application was properly treated as an application under 35 U.S.C. 111 and 37 CFR 1.53.

Nevertheless, applicant requests conversion of the above-identified utility application to a national phase application under 35 U.S.C. 371 and claims:

1. Applicant would be unjustly deprived of national phase status based on a clerical error;

2. Treating as a continuation application is clearly contrary to applicant's intent;

3. Applicant Barred from Obtaining National Phase Status;

4. Person who is dilatory has superior rights; and,

5. Applicant will suffer an undue hardship and prejudice.

These arguments will be considered in turn.

Treatment Unjust

Petitioner claims that applicant would be unjustly deprived of national phase filing status based on a clerical error. This argument has been considered and dismissed. As indicated above, the processing of this application under 35 U.S.C. 111(a) was proper. The transmittal letter alone is sufficient as indicated by the OG Notice and section 1893(a) of the Manual of Patent Examining Procedure.

Applicant also argues that the preliminary amendment was specifically addressed to Box PCT, and that applicant "believes that no bypass continuation patent application has ever been filed at Box PCT, United States Designated/Elected Office (DO/EO/US)." Applicant is mistaken. As indicated in 1077 OG 13 (April 14, 1987), if there are any conflicting instructions the application will be processed under 35 U.S.C. 111(a). The address of the application is irrelevant. Mail directed to the wrong USPTO Box will be redirected to correct box. *See* OG Notice dated 05 February 2002.) While a delay in processing of the misdirected documents may occur, use of the wrong mailing address will not affect the filing date assigned to any application or correspondence received in the PTO, except as specified in 37 CFR 1.1(g). (See OG Notice dated 04 April 1995).

Contrary to Applicant's Intent

Applicant also asserts that the intent of applicant was to file a national stage application. However, applicant intent is not clear and the instructions are conflicting. The submission of a "Utility Patent Application Transmittal Letter is inconsistent with an intent to enter the national stage of the PCT under 35 U.S.C. 371.

Accordingly, the application was properly treated as an application under 35 U.S.C. 111 and 37 CFR 1.53.

Applicant Barred From Filing National Stage

Applicant claims to be barred from obtaining U.S. national phase status because "Applicant will have two pending patent applications that are absolutely identical. Under 35 U.S.C. Sections 101 and 121, this is absolutely and totally prohibited . . . as double patenting."

This claim is erroneous. Applicant is not barred from having two applications only two patents. Therefore, applicant may enter the national phase of PCT/GB00/02413 by including a petition to the Commissioner under 37 CFR 1.137(a) or (b) requesting that the application be revived. (This recommendation to file a petition under 37 CFR 1.137(a) or (b) should not be construed as an indication as to whether or not any such petition(s) will be favorably considered.)

Dilatory Applicant Has Superior Rights

Applicant claims that "there is no logical reason to allow an applicant, who is absolutely dilatory and does not file anything within the requisite time period set forth by the Patent Cooperation Treaty, to be able to file a petition with a statement that the entire delay was unintentional and easily obtain a U.S. national phase patent application" but deny petitioner "due to the presence of an erroneous transmittal document."

As indicated above, applicant is not barred from having two applications only two patents.

Applicant, Will Suffer Undue Hardship and Prejudice Due to Status

Applicant claims that as a result of his status as a foreign citizen, he will suffer an undue hardship and prejudice by having to provide a certified copy of the underlying British patent No. 9914418.0. In addition, the standard for unity of invention is much more liberal under PCT than under U.S. regulations, which could also provide a hardship to applicant.

These claims are rejected. The requiring of a certified copy of a foreign patent application does not meet this criterion. Moreover, the unity of invention standard for international applications under the PCT is irrelevant to the examination criteria for obtaining a patent in the United States under either 35 U.S.C. 111(a) or 371.

Accordingly, it would not be appropriate to consider the conversion of the application to a national stage application under 35 U.S.C. 371 at this time.

CONCLUSION

Applicant's petition to convert the application from a 35 U.S.C. 111 filing to a national stage application under 35 U.S.C. 371 is **DISMISSED** without prejudice.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required.

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

This application is being returned to the Technology Center 2100 for further examination.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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FEB 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Tierney, et al. :
Application No. 10/039,570 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 27734/92540 :

This is a decision on the petition under 37 CFR 1.137(a), or in the alternative 37 CFR 1.137(b), filed November 23, 2005, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the non-final Office action mailed February 24, 2003. Accordingly, this application became abandoned on May 25, 2003. A Notice of Abandonment was mailed on November 26, 2003.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

(2) The petition fee as set forth in § 1.17(l);

(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

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).

Petitioner asserts financial difficulty as a cause of delay. Petitioner has not explained how financial difficulty caused the unavoidable delay. Additionally, a showing of "unavoidable" delay based upon financial difficulty must be supported by a complete showing of the responsible person's or entity's financial condition during the relevant period, including income, expenses, assets, credit and obligations, which made the delay unavoidable. Such documentary evidence of financial difficulty has not been submitted.

Furthermore, petitioner states various crimes and fraudulent activities have been committed against the applicant. However, no police reports or other documentary evidence has been submitted in support.

Additionally, the record indicates that the law firm of Barnes & Thornburg, LLP was responsible for prosecution of the above-identified application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the law firm of Barnes & Thornburg, LLP explaining why action was not timely taken to prevent the above-identified application from becoming abandoned. Such a statement has not been submitted

Lastly, please note, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 U.S.P.Q.2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q.2d 1130, 1132 (D.N. Ind. 1987). Further, please note, the Patent and Trademark Office is not the proper forum for resolving disputes

between applicants and their representatives. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

Accordingly, the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

However, the petitioner has requested that, in the alternative, that the petition be considered under 37 CFR 1.137(b).

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

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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.

The additional $500.00 for a petition under 37 CFR 1.137(b) has been charged to deposit account no. 50-2063, as per the authorized found in the instant petition.

Please note, the "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address" has **NOT** been entered. As the document was signed by the assignee, a statement under 37 CFR 3.73(b) **MUST** be submitted.

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

The file is being forwarded to Technology Center 3600 for review of the amendment filed November 23, 2005, *in due course*.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc.
MERONI & MERONI
P.O. BOX 309
BARRINGTON, IL 60011

UNITED STATES 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

Leo V. Novakoski
BLAKELY SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of
Tu, et al.
Application No. 10/039,587
Filed: December 31, 2001
Attorney Docket No. 42390P12013
For: MECHANISM HANDLING RACE CONDITIONS IN FRC-ENABLED PROCESSORS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed August 11, 2003 (certificate of mailing date August 6, 2003), to change the order of inventorship.

The petition is DISMISSED.

Petitioner requests the order of inventors to be changed to:

Steven J. Tu
Alexander J. Honcharik
Hang T. Nguyen
Sujat Jamil
Merrell Quinn

The current order of inventors is:

Steven J. Tu
Alexander J. Honcharik
Hang T. Nguyen
Sujat Jamil
Quinn W. Merrell

Thus, the order of inventors appears to be correct.

The issue seems to be the **name** of the fifth joint inventor. It is noted that the executed declaration lists the fifth joint inventor as Quinn W. Merrell, but petitioner lists the fifth joint inventor as Merrell Quinn.

If petitioner desires to change the name of the fifth joint inventor, then petitioner must file another petition under 37 CFR 1.182 AND provide a declaration signed by both names with an explanation of how the name change was effected OR provide a certified copy of a court order for the name change.

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

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

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of :
Howard S. David :
Application No. 10/039,596 : DECISION ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. 42390.P13873 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 19, 2007. Accordingly, the date of abandonment of this application is September 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

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

Elsa Keller Legal Administrator
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin NJ 08830

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OFFICE OF PETITIONS

In re Application of :
Ghelmansarai et al. :
Application No.10/039,607 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket Number: 2001P18159US :
Title of Invention: X-ray Therapy Electronic :
Portal Imaging System and Method for Artifact :
Reduction :

This is a decision on the petition filed January 31, 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 April 8, 2005. 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 July 9, 2005. A Notice of Abandonment was mailed on November 28, 2005.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. 7

BEYER WEAVER & THOMAS LLP
PO BOX 778
BERKELEY CA 94704-0778

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AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of
Robert F. Wallace
Application No. 10/039,615
Filed: January 4, 2002
Attorney Docket No.
SDK1P007/SDK0296.000US

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 July 28, 2003 (Certificate of Mailing dated July 21, 2003), and supplemented by a facsimile transmission filed on August 26, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on December 19, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant filed a "Rescission of Nonpublication Request" on December 26, 2002 (Certificate of Mailing under 37 CFR 1.8 dated December 19, 2002, however, the rescission request was not eligible for the benefits of 37 CFR 1.8.[1]). Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[2]

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

[2] See id.

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

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

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

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

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

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

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing, indicating a projected publication date of December 4, 2003, accompanies this decision.

The application is being forwarded to Technology Center 2800 to await for applicant's reply to the non-final Office action mailed June 5, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request and Notice of Foreign Filing (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANDLEY & GILCREST LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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SEP 16 2002

OFFICE OF PETITIONS

In re Application of :
Rizzoni et al. : DECISION REFUSING
Application No. 10/039,634 : STATUS UNDER
Filed: November 9, 2001 : 37 CFR 1.47(a)
Attorney Docket No. OSU1159-143C :
For: MODEL-BASED FAULT DETECTION :
AND ISOLATION SYSTEM AND :
METHOD :

This is a decision on the petition under 37 CFR 1.47(a), filed July 22, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

Petitioner states that petitioner has been unable to obtain the signature of Giorgio Rizzoni because Mr. Rizzoni is currently out of the country but will probably return by July 29, 2002. Petitioner states that, "It is applicants' belief and expectation that a signed Declaration can be obtained shortly after Mr. Rizzoni's return. MPEP 409.03(d) states,

> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47.

Petitioner should either obtain a declaration with Mr. Rizzoni's signature or provide a showing in compliance with 37 CFR 1.47(a) within two months of the mail date of this decision (this time period is extendable).

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

Standley & Gilchrest LLP
495 Metro Place South
Suite 210
Dublin, OH 43017

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APR 1 1 2003

OFFICE OF PETITIONS

In re Application of
Rizzoni et al.
Application No. 10/039,634
Filed: November 9, 2001
Attorney Docket No.OSU1159-143C

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

Papers filed on September 9, 2002, included a Declaration signed by a previously non-signing inventor in compliance with 37 CFR 1.63.

On July 22, 2002, a petition under 37 CFR 1.47(a) was filed. A decision dismissing the petition was mailed on September 16, 2002. However, the instant paper had previously been filed but not matched with the file. Therefore, the decision mailed on September 16, 2002 is vacated.

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 under 37 CFR 1.47 is **dismissed as moot**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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MAR 1 9 2002

OFFICE OF PETITIONS

In re Application of :
Robert Muir :
Application No. 10/039,687 : NOTICE
Filed: October 25, 2001 :
Attorney Docket No. 13625/003001 / :
106697 :

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

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

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

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

This file is being forwarded to Initial Patent Examination Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 11

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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MAY 14 2003

OFFICE OF PETITIONS

In re Application of :
Irvin W. Brechner et al :
Application No. 10/039,702 : DECISION GRANTING PETITION
Filed: January 2, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. DNA/1.CONT :

This is a decision on the petition, filed April 8, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on November 27, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

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

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing 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 3622 for examination in due course.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUL 16 2003

OFFICE OF PETITIONS

In re Application of
Michael S. Foster and Michael A. Dorsett
Application No. 10/039,703
Filed: October 26, 2001
Attorney Docket No. 030048035US
Title: METHOD AND SYSTEM FOR RESERVED ADDRESSING IN A COMMUNICATIONS NETWORK

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

This is a decision on the petition filed on June 13, 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 April 19, 2002. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

On May 6, 2002, a Notice of Rescission of Nonpublication Request was filed with the Office. Unfortunately, this was not accompianied by a notice of the foreign or international filing.

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

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

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

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such 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.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 5

CHERYL R. FIGLIN
ATTORNEY AT LAW
918 NORTH ARCH STREET
ALLENTOWN PA 18104

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of
William J. Ginder
Application No. 10/039,742
Filed: January 2, 2002
Attorney's Docket No. PATGINDER

ON PETITION

This is a decision on the petition filed by June 22, 2004 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on April 7, 2002, for failure to timely reply to the Notice to File Corrected Application Papers, mailed February 6, 2002, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 2, 2004.

The filing of substitute drawings as required by the Notice to File Corrected Application Papers mailed February 6, 2002, is acknowledged.

All other requirements having been met , this application is being forwarded to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

MATT RAINEY
LAW OFFICES OF MATT RAINEY
1241 GRIZZLY PEAK BLVD.
BERKELEY CA 94708

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JUL 17 2002

OFFICE OF PETITIONS

In re Application of :
Osher et al. :
Application No. 10/039,748 : DECISION GRANTING
Filed: December 18, 2001 : PETITION
Attorney Docket No. 03.002 :

This is a decision on the petition filed March 1, 2002, to accord the above-identified application a filing date of December 18, 2001.

On December 18, 2001, the application was filed.

On February 6, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on December 18, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Drawings (8 Sheets)" on December 18, 2001.[1] Petitioner has also submitted a copy of the missing documentation- 8 pages of drawings.

Upon review of the record, the drawings, deposited on December 18, 2001, have not been located. However, the evidence is convincing that the application papers deposited on December 18, 2001, included 8 pages of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of December 18, 2001.

In view of the above, the petition is **granted**. The copy of the 8 pages submitted with the petition will be used for examination purposes.

The petition fee of $130 has been scheduled to be refunded.

The Notice mailed February 6, 2002, was sent in error and is hereby vacated.

---

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 18, 2001, using the application papers filed on December 18, 2001, and the copy of the 8 pages of drawings filed on March 1, 2002.

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

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

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DEC 20 2002

Technology Center 2100

Paper No. 5

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

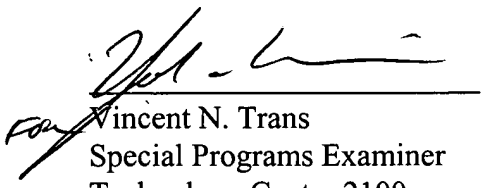
In re Application of:	)	
Viral Kadakia, et al.	)	
Application No. 10/039,766	)	
Filed: December 31, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD FOR THE SECURE AND	)	**WITHDRAWAL AS ATTORNEY**
TIMELY DELIVERY OF LARGE	)	
MESSAGES OVER A DISTRIBUTED	)	
COMMUNICATION NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed November 18, 2002.

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

The request is signed by Charles J. Kulas alone and does not contain a clear indication that Mr. Kulas is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal. Accordingly, the request is **DENIED**.

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



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

UNITED STATES PATENT AND TRADEMARK OFFICE

#7
2/6/03

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

FEB - 6 2003

Paper No. 7

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

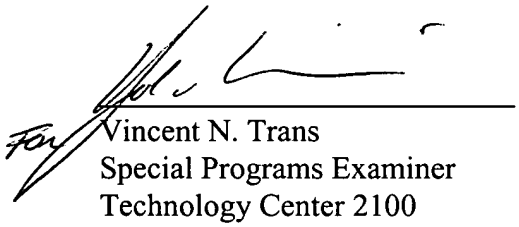
In re Application of: Viral Kadakia, et al.	)	
Application No. 10/039,766	)	
Filed: December 31, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD FOR THE SECURE AND	)	**WITHDRAWAL AS ATTORNEY**
TIMELY DELIVERY OF LARGE	)	
MESSAGES OVER A DISTRIBUTED	)	
COMMUNICATION NETWORK	)	

This is a decision on the Request To Withdraw from Representation filed January 13, 2003.

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

The request is **GRANTED**.

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



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

cc: Mr. Rajiv Maheshwari
Slam Dunk Networks, Inc.
100 Redwood Shores Parkway, Suite 100
Redwood City, CA 94065

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP
ATTENTION: DOCKETING DEPARTMENT
11682 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

COPY MAILED

JUN 14 2004

OFFICE OF PETITIONS

In re Application of	:
Gene Gould et al	:
Application No. 10/039,769	: DECISION GRANTING STATUS
Filed: December 31, 2001	: UNDER 37 CFR 1.47(A)
For: SCANNING SPECTROPHOTOMETER FOR HIGH THROUGHPUT FLUORESCENCE DETECTION AND FLUORESCENCE POLARIZATION	:

This is in response to the petition under 37 CFR 1.47(a), filed April 16, 2002[1].

The petition is granted.

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

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 Petitions Examiner WanLaymon at (703) 306-5685.

This application file is being referred to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed March 29, 2004.

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

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENE GOULD
1702 LEGAYE DRIVE
CARLSBAD, CA 92007

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JUN 14 2004

OFFICE OF PETITIONS

In re Application of
Gene Gould and Michael J. Conrad
Application No. 10/039,769
Filed: December 31, 2001
For: SCANNING SPECTROPHOTOMETER FOR HIGH THROUGHPUT FLUORESCENCE DETECTION AND FLUORESCENCE POLARIZATION

Dear Mr. Gould:

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

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

Telephone inquiries regarding this communication should be directed to Wan Laymon at (703) 306-5685. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

cc:
PILLSBURY WINTHROP
ATTENTION: DOCKETING DEPARTMENT
11682 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PILLSBURY WINTHROP
ATTENTION: DOCKETING DEPARTMENT
11682 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

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JUN 1 4 2004

OFFICE OF PETITIONS

In re Application of	:
Gene Gould et al	:
Application No. 10/039,769	: DECISION GRANTING STATUS
Filed: December 31, 2001	: UNDER 37 CFR 1.47(A)
For: SCANNING SPECTROPHOTOMETER FOR	:
HIGH THROUGHPUT FLUORESCENCE	:
DETECTION AND FLUORESCENCE	:
POLARIZATION	:

This is in response to the petition under 37 CFR 1.47(a), filed April 16, 2002[1].

The petition is granted.

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

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 Petitions Examiner WanLaymon at (703) 306-5685.

This application file is being referred to Publishing Division to await a reply to the Notice of Allowance and Fee(s) Due mailed March 29, 2004.

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

[1] The instant petition was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in replying to the instant petition and inconvenience caused petitioner by this delay.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

Martha Ann Finnegan, Esq.
Chief Intellectual Property Counsel
Cabot Corporation
157 Concord Road
Billerica, MA 01821-7001

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JAN 0 3 2003

OFFICE OF PETITIONS

In re Application of :
Ting Wang, et al. :
Application No. 10/039,774 : ON PETITION
Filed: November 9, 2001 :
Attorney Docket No. RID 01058 (03259-00018) :

This is in response to the petition under 37 CFR 1.47(a)", filed July 12, 2002.

The petition is granted.

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

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

As provided in 37 CFR 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Mr. Glendon A. McConnell
3031 La Salle Avenue
Apartment #4
Rockford, IL 61114

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JAN 0 3 2003

OFFICE OF PETITIONS

In re Application of
Ting Wang, Glendon A. McConnell, and Meng-Jiao Wang
Application No. 10/039,774
Filed: November 9, 2001
For: ELASTOMER COMPOSITE MATERIALS IN LOW DENSITY FORMS AND METHODS

Dear Mr. McConnell:

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 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 Marianne Morgan at (703) 306-3475. 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, DC area).

Frances Hicks

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

cc: Martha Ann Finnegan, Esq.
Cabot Corporation
157 Concord Road
Billerica, MA 01821

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUL 17 2003

OFFICE OF PETITIONS

In re Application of :
Foster et al. : DECISION ON PETITION
Application No. 10/039,784 : UNDER 37 CFR 1.137(f)
Filed: 26 October, 2001 :
Atty Docket No. 030048038US :

This is a decision on the Petition under 37 CFR 1.137(f), filed on 13 June and supplemented by facsimile on 2 July, 2003, which is being treated as a petition filed under 37 CFR 1.137(b) to revive the above identified nonprovisional application.

The petition is **GRANTED**.

The above-identified application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) for failure to timely notify the United States Patent and Trademark Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by the following: (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;[1] (2) the petition fee as set forth in 37 CFR 1.17(m); and, (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition is in compliance with the requirements of 37 CFR 1.137(f). Accordingly, applicant's failure to notify the

[1]The filing of a petition under this section will not relieve applicant of the obligation to reply to any outstanding Office action.

Office timely of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) is accepted as an unintentionally delayed. A Notice Regarding Rescission of Nonpublication Request setting forth the projected publication date, 9 October, 2003, accompanies this decision on petition.

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

Telephone inquiries specifically concerning this decision be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Attch: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dan M. De La Rose, Esq.
345 East 80th Street
Suite 27H
New York, NY 10021

In re Application of
Marenick, Michael
Filed: 01/08/02
Application No. **10/039793**
Attorney Docket No. P-0022US
For: Hydrolized whole egg products & related methods

: LETTER REGARDING
: MERGING OF APPLICATION
: FILES

☑ This is a response to the request filed on **02/28/02**, in above-identified application, requesting that the file of the above-identified application and the file that contains a duplicate copy of the application papers be merged. The request is **granted**.

Applicant is hereby notified that the file of the above-identified application and the file that contains a duplicate copy of the application papers will be **merged**.

All papers in the file that contains the duplicate copy will be placed in application No. **10/039793**. All future correspondence concerning the application should be directed to this application number.

Application No. **10/052756**, assigned to the file that contains the duplicate papers, will no longer be active.

☑ The filing fee paid in the file that contains the duplicate papers will be refunded.

☐ The Petition fees for the Petition Under 37 CFR 1.10(e) and the Petition Under 37 CFR 1.102(d) that were filed in the file that contains the duplicate papers will be refunded.

☐ All notices mailed by the Office in the file that contains the duplicate papers are hereby vacated.

2/27/02

Telephone inquiries concerning this communication should be directed to the Customer Service Center, Office of Initial Patent Examination Division, at (703) 308-1202.

Delora Dellard

2/27/02

PATENT APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

01/28/2002 HDEMESS1 00000132 10052756

01 FC:201	370.00 OP
02 FC:202	252.00 OP
03 FC:203	135.00 OP

Adjustment date: 05/08/2002 SDIRETA1
01/28/2002 HDEMESS1 00000132 10052756

01 FC:201	-370.00 OP
02 FC:202	-252.00 OP
03 FC:203	-135.00 OP

Adjustment date: 05/08/2002 SDIRETA1
01/28/2002 HDEMESS1 00000132 10052756

04 FC:581	-40.00 OP

Refund Ref:
05/08/2002 SDIRETA1 0000116853 ME

CHECK Refund Total: $797.00

PTO-1556
(5/87)

*U.S. GPO: 2000-468-987/39595

UNITED STATES 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

Paper No. 7

THE SONI LAW FIRM
55 S. LAKE AVE SUITE 720
PASADENA CA 91101

APR 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of)
Yong Tuck Lee)
Application No. 10/039,795)
Filed: October 19, 2001)
For: FAMILY TREE WEBSITE ARCHITECTURE)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 19, 2004.

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

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

All attorneys/agents of record are withdrawn.

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

It is noted that there is an outstanding Office action, mailed March 9, 2004.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Yong Lee
C/o Big Zoo.com
55 South Lake Ave, Suite 700
Pasadena, CA 91101

UNITED STATES 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

OCT 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Benman, Brown & Williams
20049 Century Park East
Suite 2740
Los Angeles CA 90067

In re Application of
Yong Tuck Lee
Application No. 10/039,795
Filed: October 19, 2001
For: **FAMILY TREE WEBSITE ARCHITECTURE**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed August 29, 2005. No fee is required.

This application was held as abandoned for failure to timely respond to the final Office action mailed on December 27, 2004. A Notice of Abandonment was mailed July 27, 2005

Petitioner alleges that the final Office action was not received. To support the assertion, Petitioner includes a date-stamped post card receipt from the Office which itemizes, among other items, a power of attorney and change of correspondence address request. In addition, Petitioner includes a copy of the Office action which contained a previous mailing address.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has not fully complied with the requirements set forth above.

However, a review of the application record reveals that the power of attorney and change of address request was received in the Office on August 13, 2004 and matched with the application file, prior to the mailing of the final Office action of December 27, 2004. However, it does not appear as though the change of address request was appropriately processed given that the final Office action and the Notice of Abandonment were mailed to the previous address of record.

Given the fact that there was a request for correspondence address change prior to the mailing of the final Office action and prior to the mailing of the Notice of Abandonment, there was an obvious irregularity in the mailing of the Office communication.

Thus, the application was not abandoned in fact. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

Given the original mailing date of the final Office action, the application will be returned to the examiner for updates as appropriate and generation of a new Office action. From there, the application will be forwarded to the Technology Center's technical support staff for entry of the change of address and mailing the new Office action.

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

WOODARD EMHARDT MORIARTY MCNETT &
HENRY LLP
BANK ONE CENTER / TOWER
111 MONUMENT CIRCLE
SUITE 3700
INDIANAPOLIS IN 46204

COPY MAILED

NOV 2 3 2005

OFFICE OF PETITIONS

In re :
Eldon H. Nyhart, Jr. : DECISION REGARDING
Application No. 10/039,797 : PATENT TERM ADJUSTMENT
Filed: October 26, 2001 :
Attorney Docket No. 3413-12 :

This decision is in response to the "STATEMENT REGARDING PATENT TERM ADJUSTMENT", filed April 19, 2005, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **DISMISSED**.

On October 1, 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 six hundred forty-five (645) days. Applicant submitted the instant "STATEMENT REGARDING PATENT TERM ADJUSTMENT" on April 19, 2005. Applicant states that he believes there was an error in the patent term adjustment calculation.

The Office determined a patent term adjustment of six hundred forty-five (645) days based on an adjustment for PTO delay of six hundred forty-five (645) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay.

A review of the application does not reveal any errors in the calculation of the patent term adjustment. Accordingly, as of the mailing date of the Notice of Allowance, the correct patent term adjustment is six hundred forty-five (645) days.

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

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

Kery Fries for

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

Pet. Dec.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

5/19/05

WAK

In re Application of :
Gary Mize :
Serial Number: 10/039,804 : DECISION
Filed: January 2, 2002 : ON
For: Biologically Safe Mailbox : PETITION

This is in response to the request filed December 28, 2004, requesting permission for withdrawal as attorney from the above-identified application.

The Commissioner of Patents and Trademarks requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

In this case there is less than thirty days between approval of withdrawal of the current attorney of record and the expiration date of a time response period.

The Request is **Denied**.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael S. Neustel
Neustel Law Offices, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SENNIGER POWERS LLP
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

In re
Wu, et al.
Application No. 10/039,809
Filed: October 27, 2001
Patent No. 6,759,114
Issued: July 6, 2004

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed July 2, 2008.

The fee deficiency submission under 37 CFR 1.28 of $1,190 (representing the difference between the small entity and large entity filing fee, $660, and issue fee, $530) is hereby **accepted.**

$1,190 has been charged to Deposit Account No. 19-1345, as authorized.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

Paper No. 17

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AUG 17 2004

Director's Office
Office of Patent Publication

WILLIAM W. HAEFLIGER
SUITE 512
201 SO. LAKE AVE.
PASADENA, CA 91101

In re Application of :
Morris F. Dilmore, et al. :
Application No. 10/039,811 : **DECISION ON PETITION**
Filed: January 8, 2002 :
Attorney's Docket No. 12,105-1 :

This is a decision on the Request For Withdrawal Of Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on March 5, 2004, which is being treated as a Petition To Withdraw Holding Of Abandonment under 37 CFR 1.181. A Second Request For Withdrawal Of Abandonment was received on July 1, 2004

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 September 23, 2003, which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed on February 25, 2004.

The petition is **DISMISSED**. The Second Request For Withdrawal Of Abandonment, received on July 1, 2004, submitted due to no reply to the original Request is set aside a moot.

Petitioner has submitted copy of the Issue Fee Transmittal, the check in the amount of $1,600 and the postcard receipt, which acknowledges receipt of the afore-mentioned documents on July 17, 2003.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on July 17, 2003, which is present in the application file and the check for $1,600. However, a new Notice Of Allowance And Fee(s) Due, with Part B – Fee(s) Transmittal, Notice of Allowability, Determination of Patent Term Adjustment, Notice of Fee Increase and the Examiners statement attached therewith, was mailed on September, 23, 2003.

Petitioner's attention is directed to the first page of the Notice of September 23, 2003, which states in bold print:

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THE APPLICATION. THE PTOL-85B (0R AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

Although, the Notice indicates that $0 fee(s) is due, the applicant was required to return the Notice or the application would be regarded as abandoned. The applicant did not return the Notice as instructed, and as a result thereof, the proper abandonment of the application.

Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Further correspondence with respect to the Petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 703-305-9282 or as follows:

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

Telephone inquires concerning this decision may be directed to the undersigned at 703-305-8380.

Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES 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

William W. Haefliger
Suite 512
201 So. Lake Ave.
Pasadena CA 91101

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NOV 02 2004

OFFICE OF PETITIONS

In re Application of :
Dilmore, et al. :
Application No. 10/039,811 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. 12,105-1 :
For: METAL CONSOLIDATION PROCESS :
APPLICABLE TO FUNCTIONALLY GRADIENT
MATERIAL (FGM) COMPOSITIONS OF
TANTALUM AND OTHER MATERIALS

This is a decision on the petition under 37 CFR 1.137(a), filed September 9, 2004 (certificate of mailing date September 3, 2004), to revive the above-identified application.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely submit a complete reply to the Notice of Allowance and Fee(s) Due, mailed September 23, 2003, which set a period for reply of three (3) months.

The Office mailed a Notice of Allowance and Fee(s) Due with Part B - Fee(s) Transmittal, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), a Notice of Fee Increase on January 1, 2003, and a Notice of Allowability on May 9, 2003.

On June 2, 2003, petitioner filed an improper CPA and preliminary amendment. The CPA was improper because it is not possible to file a CPA in an application filed after May 29, 2000. The improper CPA was treated as a Request for Continued Examination and prosecution was reopened.

On July 17, 2003 (certificate of mail date July 10, 2003) petitioner submitted a completed Part B - Fee(s) Transmittal and the issue fee and publication fee. However, at this time, prosecution was reopened. The fees submitted were treated as inactive because prosecution had been reopened.

The examiner reviewed the June 2, 2003 RCE and preliminary amendment and mailed a new Notice of Allowance and Fee(s) Due with Part B - Fee(s) Transmittal, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), a Notice of Fee Increase on October 1, 2003, and a Notice of Allowability on September 23, 2003. The Notice of Allowance and Fee(s) Due required petitioner to submit a completed Part B-Fee(s) Transmittal by December 23, 2003. The Notice of Fee Increase on October 1, 2003 informed petitioner that effective October 1, 2003, the issue fee would increase from $1,300 to $1,330. No reply was received. This application became abandoned on December 24, 2003. A Notice of Abandonment was mailed on February 25, 2004.

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

Regarding (1) above, petitioner has not submitted a completed Part B - Fee(s) Transmittal from the September 23, 2003 mailing.

While the fee due is listed as $0 on the September 23, 2003 Notice of Allowance and Fee(s) Due, the Notice of Fee Increase mailed concurrently explains that if the response required by the September 23, 2003 mailing is submitted after October 1, 2003, the issue fee will increase to $1,330. The Office applied the inactive $1,300 issue fee paid on July 17, 2003 (certificate of mailing date July 10, 2003) toward the current issue fee owed in reply to the September 23, 2003 Notice of Allowance and Fee(s) Due. However, because petitioner did not submit a completed Part B- Fee(s) Transmittal on or before October 1, 2003, after October 1, 2003 petitioner owed an additional $30 towards full payment of the then-current issue fee ($1,330). Had petitioner submitted a completed Part B- Fee(s) Transmittal on or before October 1, 2003, petitioner would not owe additional money.

Pursuant to petitioner's authorization, $30 will be charged to deposit account no. 08-0118.

Regarding (3) above, petitioner has not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was unavoidable.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner believed that the July 17, 2003 response to the May 9, 2003 Notice of Allowance and Fee(s) Due and associated documents was sufficient and that the September 23, 2003 Notices and associated documents were redundant. Petitioner failed to realize that the improper CPA and preliminary amendment filed on June 2, 2003 would reopen prosecution and, in effect, void the requirements found in the May 9, 2003 Notices. The September 23, 2003 Notices and associated documents allowed the application, closed prosecution, and re-set requirements.

The September 23, 2003 Notice of Allowance and Fee(s) Due states that the PTOL-85B ("Part B-Fee(s) Transmittal") or an equivalent **must** be returned within the set three month period even if no fee is due or the application will be regarded as abandoned. If a response was filed after October 1, 2003, the issue fee due increased from $1,300 to $1,330. Petitioner did not respond.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

ALTERNATE VENUE

Petitioner is 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 $1,370.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). For petitioner's convenience, a blank PTO/SB/64 -- Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

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

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/64 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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

William W. Haefliger
Suite 512
201 So. Lake Ave.
Pasadena CA 91101

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APR 25 2005

OFFICE OF PETITIONS

In re Application of :
Dilmore, et al. :
Application No. 10/039,811 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. 12,105-1 :
For: METAL CONSOLIDATION PROCESS :
APPLICABLE TO FUNCTIONALLY GRADIENT
MATERIAL (FGM) COMPOSITIONS OF
TANTALUM AND OTHER MATERIALS

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2004 (certificate of mailing date December 14, 2004), to revive the above-identified application.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely submit a complete reply to the Notice of Allowance and Fee(s) Due, mailed September 23, 2003, which set a period for reply of three (3) months.

The Office mailed a Notice of Allowance and Fee(s) Due with Part B - Fee(s) Transmittal, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), a Notice of Fee Increase on January 1, 2003, and a Notice of Allowability on May 9, 2003.

On June 2, 2003, petitioner filed an improper CPA and preliminary amendment. The CPA was improper because it is not possible to file a CPA in an application filed after May 29, 2000. The improper CPA was treated as a Request for Continued Examination and prosecution was

reopened.

On July 17, 2003 (certificate of mail date July 10, 2003) petitioner submitted a completed Part B - Fee(s) Transmittal and the issue fee and publication fee. However, at this time, prosecution was reopened. The fees submitted were treated as inactive because prosecution had been reopened.

The examiner reviewed the June 2, 2003 RCE and preliminary amendment and mailed a new Notice of Allowance and Fee(s) Due with Part B - Fee(s) Transmittal, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), a Notice of Fee Increase on October 1, 2003, and a Notice of Allowability on September 23, 2003. The Notice of Allowance and Fee(s) Due required petitioner to submit a completed Part B-Fee(s) Transmittal by December 23, 2003. The Notice of Fee Increase on October 1, 2003 informed petitioner that effective October 1, 2003, the issue fee would increase from $1,300 to $1,330. No reply was received. This application became abandoned on December 24, 2003. A Notice of Abandonment was mailed on February 25, 2004.

A grantable petition pursuant to 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. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Regarding (1) above, petitioner still has not submitted a completed Part B - Fee(s) Transmittal from the September 23, 2003 Notice of Allowance and Fee(s) Due mailing.

The September 23, 2003 Notice of Allowance and Fee(s) Due states that the PTOL-85B ("Part B- Fee(s) Transmittal") or an equivalent **must** be returned within the set three month period even if no fee is due or the application will be regarded as abandoned.. This application will not be revived until a completed Part-B-Fee(s) Transmittal from the September 23, 2003 mailing is filed in the Office.

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: (703) 872-9306 – ATTN: Office of Petitions

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

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

OIPE
JUN 2 0 2005
PATENT & TRADEMARK OFFICE

06-22-05

DAC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Art Unit 1742	Examiner: Daniel J. Jenkins
Applicants:	Morris F. Dilmore
Serial No:	10/039,811
Filed:	January 8, 2002
For:	METAL CONSOLIDATION PROCESS APPLICABLE TO FUNCTIONALLY GRADIENT MATERIAL (FGM) COMPOSITIONS OF TANTALUM AND OTHER MATERIALS

Pasadena, California
June 20, 2005

RESPONSE TO DECISION ON PETITION DATED APRIL 25, 2005

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

Sirs:

As requested, an executed Part B fees transmittal form is enclosed. It shows that zero total fees are due.

With respect to the April 25 Notice of Petition further decision, please note that the statement therein, "no reply was received", on page 2, line 10 is incorrect. Enclosed herewith is a copy of a postcard receipt, stamped by the PTO on December 17, 2004, showing that the Office received on Dec. 17, 2004 the designated "Petition for

Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)". A copy of that Petition is enclosed. Kindly charge any additional fee to Account No.08-0118. Kindly refund any overpaid fee.

Respectfully submitted,

William W. Haefliger
Attorney for Applicants
Registration No.17,120
Area code 323 684-2707

WWH:hk
Enclosure
Docket 12,105-1

LAW OFFICES
WILLIAM W. HAEFLIGER
PATENT LAWYER

201 SOUTH LAKE AVENUE
SUITE 512
PASADENA, CALIFORNIA 91101

TELEPHONE
(323) 684-2707
(626) 449-0467
FAX (626) 449-0520
E-MAIL: whaeflig@pacbell.net

June 20, 2005

CERTIFICATE OF EXPRESS MAILING

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

Sir:

I, WILLIAM W. HAEFLIGER, hereby certify that the attached "Response to Decision on Petition dated April 25, 2005, and Transmittal Form Part B, and a self-addressed stamped postal acknowledgement card were deposited with the U.S. Patent and Trademark Office "Express Mail - Post Office to Addressee", mailing label number EV 367127457 US in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, Post Office Box 1450, Alexandria, VA 22313-1450, on June 20, 2005.

Dated:June 20, 2005

By _____
William W. Haefliger
Attorney for Applicant
Registration No.17,120
Area Code 323 684-2707

Dkt.12,105-1

EXPRESS MAIL LABEL NO. EV 622 JUN 20 2005 U.S. PATENT AND TRADEMARK OFFICE

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
Alexandria, Virginia 22313-1450
or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

7590 09/23/2003

William W. Haefliger
Suite 512
201 So. Lake Ave.
Pasadena, CA 91101

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below.

William W. Haefliger	(Depositor's name)
	(Signature)
June 20, 2005	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,811	01/08/2002	Morris F. Dilmore	12,105-1	1120

TITLE OF INVENTION: METAL CONSOLIDATION PROCESS APPLICABLE TO FUNCTIONALLY GRADIENT MATERIAL (FGM) COMPOSITIONS OF TANTALUM AND OTHER MATERIALS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$0	$0	$0	12/23/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
JENKINS, DANIEL J	1742	075-245000

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

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

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

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 William W. Haefliger
2
3

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

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: Ceracon, Inc.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Carmichael, California

Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual ☒ corporation or other private group entity ☐ government

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

☐ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 08-0118 (enclose an extra copy of this form).

Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date) 6-20-05

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

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

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

TRANSMIT THIS FORM WITH FEE(S)

In Group 1742 Examiner: Daniel J. Jenkins

Applicant: Morris F. Dilmore et al

Serial No. 10/039,811

Filed: Jan.8,2002

For: METAL CONSOLDIATION PROCESS APPLICABLE TO FUNCTIONALLY GRADIENT MATERIAL (FGM) COMPOSITIONS OF TANTALUM AND OTHER MATERIALS

Any Dkt: 12.105-1

Due: 1-2-05

The date stamped hereon will be considered the filing date of the attached Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) & Check for $1,500.

OIPE
JUN 2 0 2005
PATENT

PTO/SB/64 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

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

Docket Number (Optional): 12,105-1

First named inventor: Morris F. Dilmore et al

Application No.: 10/039,811 Art Unit: 1742

Filed: January 8, 2002 Examiner: Daniel J. Jenkins

Title: METAL CONSOLIDATION PROCESS APPLICABLE TO FUNCTIONALLY GRADIENT MATERIAL (FGM) COMPOSITIONS OF TANTALUM AND OTHER MATERIALS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☒ Other than small entity – fee $ 1,500. (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 charge to Acct.No.08-0118 (identify type of reply):

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

B. The issue fee and publication fee (if applicable) of $ 1,600.
☒ has been paid previously on July 17, 2003.
☐ is enclosed herewith.

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

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

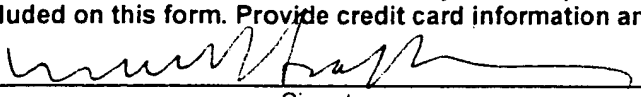
3. Terminal disclaimer with disclaimer fee

[x] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.



Signature

Dec. 14, 2004
Date

William W. Haefliger
Typed or printed name

17,120
Registration Number, if applicable

201 S. Lake Ave., Suite 512
Address

1 323 684-2707
Telephone Number

Pasadena, California 91101
Address

Enclosures: [ ] Fee Payment (see 2) above)

[ ] Reply

[ ] Terminal Disclaimer Form

[ ] Additional sheets containing statements establishing unintentional delay

[x] Other: charge to Acct.No.08-0118.

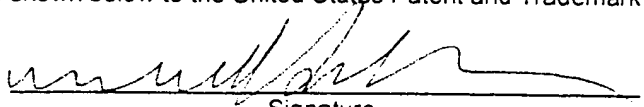
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

[x] Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

[ ] Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

Dec. 14,2004
Date



Signature

William W. Haefliger
Typed or printed name of person signing certificate

UNITED STATES 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

PERKINS COIE
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED

JUL 0 8 2003

OFFICE OF PETITIONS

In re Application of :
Michael S. Foster et al :
Application No. 10/039,814 : DECISION GRANTING PETITION
Filed: October 26, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 030048036US :

This is a decision on the petition, filed June 13, 2003, under 37 CFR 1.137(f), and supplemented June 27, 2003, 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 April 19, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

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

The instant petition has been found 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 previously rescinded.

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

This application is being forwarded to Technology Center Art Unit 2143 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

Paper No. 7

COPY MAILED

OCT 12 2006

OFFICE OF PETITIONS

SECOND SIGHT MEDICAL PRODUCTS, INC.
12744 SAN FERNANDO ROAD
BUILDING 3
SYLMAR CA 91342

In re Application of :
Robert J. Greenberg et al. :
Application No. 10/039,837 : DECISION ON PETITION
Filed: October 18, 2001 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket No.: S100-DIV2 :
Title: VISUAL PROSTHESIS WITH :
OPERATIONAL DATA TELEMETRY :

This is a decision on the petition filed on May 23, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 21, 2003, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 22, 2003. A notice of abandonment was mailed on February 6, 2004.

---

1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

With the present petition, Petitioner has submitted the petition fee, an amendment, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, the petition is **GRANTED**.

The application file will be forwarded to the Technology Center. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received with the present petition can be processed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

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

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

COPY MAILED

JUL 1 7 2002

OFFICE OF PETITIONS

In re Application of
Chang et al.
Application No. 10/039,838
Filed: November 6, 2001
Attorney Docket No. 82874.0011

DECISION GRANTING PETITION

This is a decision on the petition filed April 17, 2002, to establish that page 21 of the specification was part of the originally filed application.

On November 6, 2001, the application was filed.

On March 26, 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 November 6, 2001, and advising applicants that page 21 of the specification appeared to have been omitted.

In response, the present petition was filed alleging that page 21 was deposited on November 6, 2001. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "23 Pages Spec." on November 6, 2001.[1] Petitioner has also submitted a copy of the missing documentation- page 21 of the specification.

Upon review of the record, page 21, deposited on November 6, 2001, has not been located. However, the evidence is convincing that the application papers deposited on November 6, 2001, included page 21, and that page 21 was subsequently misplaced in the PTO.

In view of the above, the petition is **granted**. The copy of page 21 submitted with the petition will be used for examination purposes.

The petition fee of $130 will be credited to petitioner's deposit account.

The Notice mailed March 26, 2002, was sent in error and is hereby vacated.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 6, 2001, using the application papers filed on November 6, 2001, and the copy of page 21 of the specification filed on April 17, 2002.

---

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SECOND SIGHT, LLC
12744 SAN FERNANDO ROAD
BUILDING #3
SYLMAR, CA 91342

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MAY 31 2006

OFFICE OF PETITIONS

In re Application of :
Brian V. Melch et al. :
Application No. 10/039,842 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No.: S121-USA

This is a decision on the petition filed March 29, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 14, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 15, 2004. Accordingly, a Notice of Abandonment was mailed January 26, 2005.

This matter is being referred to Technology Center 3762 for appropriate action on the amendment filed March 29, 2006.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES 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

PERKINS COIE LLP
PATENT-SEA
PO BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

AUG 06 2003

OFFICE OF PETITIONS

In re Application of :
Foster, et al. :
Application No. 10/039,877 : ON PETITION
Filed: October 26, 2001 :
Attorney Docket No. 030048029US :

This is a decision on the petition to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed June 13, 2003 (supplemented by a facsimile transmission on August 4, 2003).

The petition is **GRANTED**.

Petitioner states that the instant patent is the subject of a PCT international application filed on April 19, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

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

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

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the

Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application is being forwarded to Technology Center 2600, Group Art Unit 2662, for examination.

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

FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED

OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Robert E. Woodward et al :
Application No. 10/039,887 : ON PETITION
Filed: January 3, 2002 :
Attorney Docket No. 23488-09186

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

APR 1 5 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Fenwick & West
OCT 2 2 2004
Received

FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED
OCT 1 9 2004
OFFICE OF PETITIONS

In re Application of
Robert E. Woodward et al
Application No. 10/039,887
Filed: January 3, 2002
Attorney Docket No. 23488-09186

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter will be forwarded to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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

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ALEXANDRIA, VA 22313-1450
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JUL 2 2004

Paper No. 11

Robert A. Sabourin
AGFA CORPORATION
Law and Patent Department
200 Ballardvale Street
Wilmington, MA 01887-1069

In re Application of:	MARINCIC et al.	:	
Application No.	10/039,901	:	NOTICE OF WITHDRAWAL
Filed:	Jan. 3, 2002	:	FROM ISSUE
Attorney Docket No.	XP-0985	:	UNDER 37 CFR 1.313
		:	

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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 15, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Drew Hirshfeld at (571) 272-2168.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard Goldberg, Director
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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KATTEN MUCHIN ZAVIS
Attention: Patent Administrator
Suite 1600
525 West Monroe Street
Chicago IL 60661-3693

MAILED

OCT 2 6 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Glenn Christopher Arnold, et al.
Application No. 10/039,924
Filed: November 9, 2001
For: **REAL TIME INTERACTIVE VIDEO SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed September 23, 2005 under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

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 the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Brian A. Brunswick, et al. :
Application No. 10/~~093,930~~ 039,930 : ON PETITION
Filed: October 27, 2001 :
Attorney Docket No. 006593-1870-C1 :

This is a decision on the petition, filed July 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1723 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Copied from 10093930 on 08/26/2005

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SEP 15 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted to the U.S. Patent & Trademark Office in accordance with 37 CFR § 1.6(d) on the date indicated.

[signature] Name

Sept 15/04 Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Melissa Carpenter et al.	Art Unit: 1632
Filing Date: October 23, 2001	Examiner: Thái-An N. Ton, Ph.D.
Serial No: 10/039,956	
Docket: 091/009c	
Title: USE OF HUMAN EMBRYONIC STEM CELLS FOR DRUG SCREENING AND TOXICITY TESTING	

considered TNT 12/6/04

considered TNT 12/6/04

PETITION UNDER 37 CFR § 1.48(b)
TO CHANGE INVENTORSHIP

Commissioner for Patents
Alexandria VA 22313

Dear Sir:

Applicant requests that the Inventorship on this patent application be changed to delete Walter D. Funk and Joseph D. Gold as named inventors. The invention of Drs. Funk and Gold is no longer being claimed in this application.

Upon making this correction, the Inventorship on this patent application consists of Melissa K. Carpenter, Margaret S. Inokuma, and Chunhui Xu.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GERON CORPORATION
Attn. David J. Earp
230 CONSTITUTION DRIVE
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Patent No. 7,041,438	:	
Issued: May 9, 2006	:	
Application No. 10/039,956	:	NOTICE
Filed: October 23, 2001	:	
Patentee: Melissa K. Carpenter, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent no longer qualifies for small entity status. Accordingly, any future fees paid in this patent must be paid at the large entity rate.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kendal M. Sheets 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. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. Sheets desires to receive future correspondence regarding this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENDAL M. SHEETS
CPA GLOBAL
225 REINEKERS LANE, SUITE 400
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of :
Sithya S. Khieu et al :
Application No. 10/039,957 : DECISION GRANTING PETITION
Filed: December 31, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 53325US002 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned because the appeal brief filed on September 30, 2005 was directed to an unentered amendment. In this regard, the brief must have been directed to the claims as examined in the final Office action of May 23, 2005, or file a request for continued examination to amend the claims in the manner desired. A Notice of Abandonment was mailed on April 18, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination, $790 filing fee therefor, and submission (amendment) as required by 37 CFR 1.114), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to continue prosecution in this application is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3671 for processing of the request for continued examination and for appropriate consideration of the amendment filed May 10, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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John P. Ward, Esq.
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of
Glew, et al.
Application No.: 10/039,961
Filed: December 31, 2001
Attorney Docket No.: 42390.P13736
For: PROCESSOR SUPPORTING EXECUTION OF AN AUTHENTICATED CODE INSTRUCTION

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2009, to revive the above-identified application.

The petition is **granted**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 3, 2008. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Therefore, this application became abandoned on September 4, 2008. A Notice of Abandonment was mailed on February 9, 2009.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and authorization to charge the required $540.00 fee; (2) authorization to charge the required petition fee of $1,620.00; and (3) an acceptable statement of unintentional delay.

The statement of unintentional delay was signed by a person who may not have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

Pursuant to petitioners' authorization, deposit account no. 50-0221 will be charged a $540.00 Notice of Appeal fee and a $1,620.00 Rule 137(b) fee.

After the mailing of this decision, the file will be forwarded to Technology Center AU 2437 to await receipt of the appeal brief.

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

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

Mailed: 7/15/05

NE

In re application of Megens et al. Serial No. 10/040,017 Filed: January 4, 2002 For: FABRICATING ARTIFICIAL CRYSTALLINE STRUCTURES	:	DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed February 14, 2005.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the PALM system, eDan file, and evidence submitted reveals that no Notice of Abandonment was mailed by the USPTO. According to USPTO files a letter restarting the period for response was mailed on June 3, 2005, along with a second final rejection. Therefore, the matter has been corrected administratively.

The Petition is **DISMISSED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

LUCENT TECHNOLOGIES INC.
Docket Administrator (Room 3J-219)
101 Crawfords Corner Road
Holmdel,NJ 07733-3030

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JULIUS TABIN
FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, ILLINOIS 60603

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Graham W. Flint :
Application No. 10/040,057 : DECISION ON PETITION
Filed: October 26, 2001 : 37 CFR 1.137(b)
Attorney Docket No. 81757 (7754) :

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

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due/Notice of Allowability mailed November 24, 2004, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 25, 2005. No Notice of Abandonment was mailed to the above-identified addressee.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the issue fee ($1400) and publication fee ($300) at the time of filing the petition; (2) the petition fee of $1500.00 (for a large entity) at the time of filing the petition; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed is accepted as having been unintentionally delayed.

This matter is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Frances Hicks for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901

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MAR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Bradley Christenson et al :
Application No. 10/040,070 :
Filed: October 23, 2001 :
Attorney Docket No. 19654-238898 :
: DECISION MERGING FILES
In re Application of :
Bradley Christenson et al :
Application No. 10/044,025 :
Filed: January 11, 2002 :
Attorney Docket No. 19654-238898 :

This is in response to the "Request to Withdraw Duplicate Application Petition" filed by facsimile on January 31, 2002 in application No. 10/040,070, requesting that the "Duplicate New Application Petition" filed on January 11, 2002 be withdrawn. Before a decision was made on the "Duplicate New Application Petition", the accompanying duplicate application papers were assigned application No. 10/044,025 and a filing date of January 11, 2002. Accordingly, the January 31, 2002 "Request to Withdraw Duplicate Application Petition" is being treated as a petition requesting that the file of application No. 10/044,025 be merged into the file of application No. 10/040,070, and that any duplicate fees be refunded. The petition has recently been forwarded to this office for review. Any delay in considering the petition is regretted.

The petition is granted.

On October 23, 2001, the original application papers were filed which were later assigned application No. 10/040,070.

On January 11, 2002, before petitioners received a filing receipt or a postcard receipt for the original application papers, petitioners filed the "Duplicate New Application Petition" with duplicate application papers which were assigned application No. 10/044,025.

On January 18, 2002, petitioners finally received a postcard receipt for the original October 23, 2001 application filing. It is noted that Office records show that the fees provided with the original application filing were not processed by the Office until January 14, 2002.

On January 31, 2002, petitioners filed the present petition styled "Request to Withdraw Duplicate Application Petition".

The original application was filed when the Office was being affected by USPS mail delays. See Processing of, and Requirements for, the Filing of Duplicate Applications and Papers in Patent Applications in view of USPS Mail Delays; Notice, 1254 Off. Gaz. Pat. Office 92 (January 15, 2002). It is concluded that, in this particular case, the duplicate application filed on January 11, 2002, was filed as a result of USPS mail delays that affected the Office.

Based on the foregoing, it is appropriate to merge the files.

The file of application No. 10/044,025 will be merged into the file of application No. 10/040,070 with a filing date of October 23, 2001. All fees relating to application No. 10/044,025 are being credited to counsel's deposit account no. 06-0029.

The applications are being forwarded to Initial Patent Examination Division for merging the file of application No. 10/044,025 into the file of application No. 10/040,070. The merged application No. 10/040,070 will maintain the presently accorded filing date of October 23, 2001. Application No. 10/044,025 will no longer be an active application number.

Application No. 10/040,070 will then be forwarded to Technology Center Art Unit 1615 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-5106.

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

JJE

UNITED STATES PATENT AND TRADEMARK OFFICE

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David W. Highet, VP and Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

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JUL 19 2004

OFFICE OF PETITIONS

In re Application of :
Terry J. Amiss, et al. :
Application No. 10/040,077 : ON PETITION
Filed: January 4, 2002 :
Attorney Docket No. P-5430 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 2004, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Todd Buck appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Buck desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

The application file is being forwarded to Technology Center 1700.

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

cc: Todd B. Buck
2121 K Street, N. W., Ste. 800
Washington, DC 20037

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PITNEY HARDIN
7 TIMES SQUARE
NEW YORK, NY 10036-7311

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DEC 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Steven Ausnit :
Application No. 10/040,117 : DECISION ON PETITION
Filed: January 4, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 769-222 Div.2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 8, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to an additional prior-filed nonprovisional application; namely, Application No. 09/633,944, filed August 8, 2000.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). 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).[1] 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.

---

[1] Amendment filed December 23, 2002

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 the undersigned (571) 272-3218.

This matter is being referred to Technology Center Art Unit 3721 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 5

Samuel H. Dworetsky
AT & T Corporation
P.O. Box 4110
Middletown, NJ 07748-4110

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JUL 0 1 2003

OFFICE OF PETITIONS

In re Application of :
David J. SIEGELSTEIN :
Application No. 10/040,127 : DECISION GRANTING PETITION
Filed: January 3, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 2001-0168 :

This is a decision on the petition, filed May 12, 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 December 23, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

A petition under 37 CFR 1.137(b) to revive for failure to timely notify the Office of the filing of an application in a foreign country must be accompanied by:

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

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

(3) a statement that the entire delay in filing the

required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found 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. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 17, 2003 was previously mailed on January 9, 2003.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-3865.

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

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Pet. Sec.

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

JUN 18 2004
Mailed:

BC
Paper Number:

In re application of :
Joseph M. Kelly et al. : DECISION ON
Serial No. 10/040,142 : PETITION
Filed: January 3, 2002 :
For: METHOD OF TREATING DREDGED MATERIAL :

This is a decision on the PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT, filed April 30, 2004. Petitioner asserts that their office did not receive the Office action of September 5, 2003 and a search of the file and the docket entries was conducted to locate the Office action but no Office action was found. The Petitioner also attached a docket record for the above-identified application to show that the Office action was never received.

DECISION

A review of the petitioner's evidence provided with the instant Petition and the application record indicates that the request does not have merit. The September 5, 2003 Office action was mailed to the address of:
Pitney, Hardin, Kipp & Szuch LLP
711 Third Avenue
New York, NY 10017-4014.

However, it is clear from the application record that the attorney's correspondence address changed before the mailing of the Office action of September 5, 2003, as is evidenced by the address supplied in the Papers submitted on April 8, 2003 and April 17, 2003. None of these Papers were directed to changing the correspondence address for the above-identified application.

As set forth in MPEP 711.03(c), "where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:
(A) the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;
(B) the notification on a paper listing plural applications as being affected (except

as provided for under the Customer Number practice - see MPEP § 403); or
(C) the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address."

In the instant case, the Petitioner failed to properly notify the USPTO of the change in correspondence address, which ultimately resulted in the non-receipt of the September 5, 2003 Office action. While the Petitioner did submit a proper change of correspondence address on March 22, 2004, this was after the statutory date for response to the September 5, 2003 Office action. Accordingly, this Petition cannot be granted.

The case will be returned to the examiner for official ABANDONMENT of the case, for failure to respond to the Office action of September 5, 2003. The abandonment date is December 5, 2003.

The Petition is hereby **DENIED.**

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Pitney Hardin LLP
7 Times Square
New York, NY 10036-7311

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PITNEY, HARDIN, KIPP & SZUCH
685 THIRD AVENUE
NEW YORK NY 10017

COPY MAILED

DEC 16 2004

OFFICE OF PETITIONS

In re Application of
Joseph M. Kelly et al
Application No. 10/040,142
Filed: January 3, 2002
Attorney Docket No. 056516.098181

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 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 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 September 5, 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 file is being referred to Technology Center Art Unit 1724.

Karen Ceasy

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

Pet. Dec.

PTO/SB/83 (09-04)
Approved for use through 11/30/2006. 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	10/040,142
Filing Date	January 3, 2002
First Named Inventor	Joseph M. Kelly
Art Unit	1724
Examiner Name	Peter A. Hruskoci
Attorney Docket Number	056516.098181

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

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
7/15/05

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 application was assigned to a new company that is not represented by our firm. The file is being returned to the new owners at the address below.

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number:

OR

[x] Firm or Individual Name	Mr. Michael J. Behan, CEO				
Address	Harbor Resource Management Corporation 124 Half Mile Road Suite 200				
City	Red Bank	State	NJ	Zip	07701
Country	USA				
Telephone	732-212-8200	Fax			
Signature	Lindsay S. Adams				
Name	Lindsay S. Adams	Registration No.	38,425		
Date	April 20, 2005	Telephone No.	212-297-5600		

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

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

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

BEST AVAILABLE COPY

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

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

COPY MAILED

AUG 1 6 2002

OFFICE OF PETITIONS

In re Application of
Stein, et al.
Application No.: 10/040,143
Filed: January 3, 2002
Attorney Docket No.: P-9484.01
For: MEDICAL LEAD AND LEAD CONNECTOR SYSTEM

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed May 9, 2002.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 3, 2002 without an executed oath or declaration. Accordingly, on February 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, substitute drawings, and a surcharge for the late filing of the oath or declaration.

In response, on May 9, 2002 (certificate of mailing date May 1, 2002), a petition for a one month extension of time and required fee, substitute drawings, a declaration executed by some of the joint inventors, the surcharge, the petition fee, and the instant petition were filed. A declaration of facts of Girma Wolde-Michael is part of the petition. Ms. Wolde-Michael states that Paul M. Stein, Timothy W. Holleman, Andrew J. Ries, Harry Schroder, Jordon D. Honeck, John L. Sommer, and Vicki L. Bjorklund are co-inventors of the above-identified patent application.

However, a review of the declaration reveals that there are two additional inventors listed: Douglas S. Hine and Robert S.(?) Schwartz. Both of these names have been crossed off the executed declaration. Messrs. Ries, Honeck, Sommer, and Bjorklund signed the declaration with Mr. Schwartz, not Mr. Schroder, listed as an inventor. In addition, Mr. Hine signed the declaration, but his information was subsequently crossed out by an unnamed party.

The names listed on the declaration fix the inventive entity. The inventive entity includes those persons listed by Ms. Wolde-Michael AND Messrs. Hine and Schwartz.

It is unclear as to what petitioners are requesting with respect to Mr. Hine. Paragraph 5 of the petition states that Mr. Hine is not truly an inventor and requests that the Office remove him from the application. Paragraph 7 of the petition states that Mr. Hine is not cooperating with signing the Combined Declaration/Power of Attorney papers and that Medtronic, Inc. would like agency for Mr. Hine. If petitioners wish to remove Mr. Hine, petitioners should file a petition under 37 CFR 1.48 or file a continuing application that names the correct inventors. If petitioners wish to include Mr. Hine as an inventor, petitioners should proceed under 37 CFR 1.47 (unavailable

inventor who refuses to sign the declaration or cannot be located).

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition with respect to Mr. Hine lacks items (1) and (2) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration or cannot be found. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). If Mr. Hine refuses to sign the declaration within a reasonable amount of time, petitioners will have shown refusal. In the alternative, if Mr. Hine cannot be found after diligent efforts, then petitioners will have satisfied this requirement.

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 declaration contains an noninitialed, nondated alterations. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor(s) is REQUIRED. See MPEP 409.03(a).

Pursuant to petitioners' authorization, deposit account no. 13-2546 will be charged the $130.00 fee associated with filing this type of petition.

Removing Mr. Schwartz from the inventive entity would require a petition under 37 CFR 1.48. Another option would be to file a continuing application that names the correct inventors.

Because the declaration submitted May 9, 2002 (certificate of mailing date May 1, 2002) is not acceptable, the associate power of attorney filed on the same date cannot be made of record. Once an acceptable declaration is filed, assuming Attorney Wolde-Michael is of record, Michael C. Soldner will be recorded as an associate attorney.

The substitute drawings filed May 9, 2002 (certificate of mailing date May 1, 2002) are not usable due to the irradiation process used by the Office in response to the anthrax scare. Petitioners are requested to send another copy of the substitute drawings within two months of the mail date of this decision.

The address listed on the petition differs from the address listed on the application transmittal letter. 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 as stated on the application transmittal letter.

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

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

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

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

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

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

cc: GIRMA WOLDE-MICHAEL
MEDTRONIC, INC.
7000 CENTRAL AVENUE N.E.
MINNEAPOLIS, MN 55432

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 13

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

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DEC 0 9 2002

OFFICE OF PETITIONS

In re Application of
Stein, et al.
Application No.: 10/040,143
Filed: January 3, 2002
Attorney Docket No.: P-9484.01
For: MEDICAL LEAD AND LEAD CONNECTOR SYSTEM

ON PETITION

This is a decision on the request for reconsideration under 37 CFR 1.47(a) and the petition under 37 CFR 1.48, both filed on November 18, 2002 (certificate of mailing date November 13, 2002).

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.48 is **GRANTED**.

The above-identified application was filed on January 3, 2002 without an executed oath or declaration. Accordingly, on February 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, substitute drawings, and a surcharge for the late filing of the oath or declaration. Applicants' petition under 37 CFR 1.47(a), filed May 9, 2002 (certificate of mailing date May 1, 2002), was dismissed on August 16, 2002 because applicants appeared to be attempting to alter the already fixed inventive entity by way of a Rule 47 petition.

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 from 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.

Petitioners have complied with the requirements and the petition under 37 CFR 1.48 is granted.

Because all of the named inventors have signed the declaration submitted on November 18, 2002 (certificate of mailing date November 13, 2002), the petition under 37 CFR 1.47(a) is dismissed as moot.

This file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning 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
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MAILED

JUN 18 2010

OFFICE OF PETITIONS

LAW OFFICE OF DUANE S. KOBAYASHI
1325 MURRAY DOWNS WAY
RESTON, VA 20194

In re Patent No. 7,379,981
Issue Date: May 27, 2008
Application No. 10/040,150
Filed: January 2, 2002
Attorney Docket No. MESH.0020000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed May 18, 2010, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications, which are set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Application no. 10/040,150 which was filed after November 29, 2000, matured into Patent No. 7,379,981 on May 27, 2008. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition is not compliance with the requirements for a grantable petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed nonprovisional application has not been included in a certificate of correction and (2), the certificate of correction fee has not been submitted. Thus, the instant petition for

acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 35 U.S.C. §119(e) to the above-noted, prior-filed nonprovisional and provisional applications does not satisfy the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

Before the petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and a certificate of correction and appropriate fee will need to be submitted.

Finally, 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.

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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Chris Bottorff
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

LAW OFFICE OF DUANE S. KOBAYASHI
P.O. BOX 4160
LEESBURG, VA 20177

MAILED

JUL 29 2010

OFFICE OF PETITIONS

In re Patent No. 7,379,981
Issue Date: May 27, 2008
Application No. 10/040,150
Filed: January 2, 2002
Attorney Docket No. MESH.0020000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed July 7, 2010, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications, filed by way of a certificate of correction filed concurrently herewith.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
>
> **(2)** the surcharge set forth in § 1.17(t); and
>
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Application no. 10/040,150 which was filed after November 29, 2000, matured into Patent No. 7,379,981 on May 27, 2008. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3). However, the petition does not comply with item (1).

With respect to the reference, "claims priority" does not comply with 37 CFR 1.78(a)(2)(i) in that the reference does not state the relationship between the instant application and application 09/621,965 filed July 21, 2000 as required by 37 CFR 1.78(a)(2)(i). Additionally, neither of the provisional applications were filed within one year of the instant application filed January 2, 2002.

Before the petition under 37 CFR § 1.78(a)(3) and § 1.78(a)(6) can be granted, a renewed petition and a corrected certificate of correction will need to be submitted.

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

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

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

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Chris Bottorff
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
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Paper No. 7

MAIL

FEB 06 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Crosby, Heafey, Roach & May
P.O. Box 7936
San Francisco CA 94120-7936

In re Application of :
Travis McGregor, et al. :
Application No. 10/040,156 :
Filed: December 19, 2001 :
For: BIO-METRIC SMART CARD, BIO-METRIC SMART CARD READER, AND METHOD OF USE :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on November 24, 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 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

cc: Christopher M. McGregor
Q Technologies
Spear Tower-One Market, Suite 3600
San Francisco, CA 94105

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 9, 2007

TO SPE OF : ART UNIT **2194**

SUBJECT : Request for Certificate of Correction on Patent No.: **10/040161 – 7080384B2**

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

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

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

Comments:

WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

_____ **SPE**

2194 **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

Tope-McKay & Associates
23852 Pacific Coast Highway #311
Malibu, CA 90265

COPY MAILED

JUL 17 2002

OFFICE OF PETITIONS

In re Application of	:	
Aoki et al.	:	
Application No. 10/040,210	:	DECISION GRANTING
Filed: January 2, 2002	:	PETITION
Attorney Docket No. BDI001	:	

This is a decision on the petition filed May 6, 2002, to accord the above-identified application a filing date of January 2, 2002 .

On January 2, 2002, the application was filed.

On February 7, 2002, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that drawings were deposited on January 2, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal/Informal Drawings 5 Sheet(s)" on January 2, 2002.[1] Petitioner has also submitted a copy of the missing documentation- 5 sheets of drawings.

Upon review of the record, the drawings deposited on January 2, 2002, have not been located. However, the evidence is convincing that the application papers deposited on January 2, 2002, included drawings and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of January 2, 2002..

In view of the above, the petition is **granted**. The copy of the 5 pages of drawings submitted with the petition will be used for examination purposes.

A refund of the petition fee of $130 will be scheduled. The fee for a one month extension of time to submit the petition *and* the $42 fee owed for an additional claim will not be refunded.

The Notice mailed February 7, 2002, is vacated to the extent it failed to accord the application a filing date and to the extent the Notice stated drawings were omitted.

---

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

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 2, 2002, using the application papers filed on January 2, 2002, and the copy of the 5 pages of drawings filed on May 6, 2002.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

FEB 11 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BMT/IBM
FIVE ELM STREET
NEW CANAAN CT 06840

In re Application of
Edith H. STERN, et al.
Application No. 10/040,231
Filed: January 2, 2002
For: **SYSTEMS, METHODS, AND APPARATUS FOR MONITORING A CONTAINER ASSOCIATED WITH AN ITEM**

: DECISION ON PETITION

This is a decision on the Petition to Withdraw Erroneous Notice of Abandonment filed January 5, 2005, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed May 5, 2004. A Notice of Abandonment was mailed December 14, 2004.

Petitioner alleges to have timely filed a response to said Office communication on July 22, 2004. In support thereof, Petitioner provided evidence in the way of a copy of the response filed July 22, 2004 which included a date stamped post card receipt which itemizes the receipt of an amendment on July 22, 2004.

A review of the file records reveals that the original amendment filed on July 22, 2004 has been located and matched with the file.

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The file will be forwarded to the Technology Center's technical support staff for entry of the amendment filed July 22, 2004. From there, the file will be forwarded to the examiner for consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

One World Trade Center
Suite 1600
121 S.W. Salmon Street
Portland, OR 97204

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OCT 2 2 2003

OFFICE OF PETITIONS

In re Application of :
John Peter Hill, et al. :
Application No. 10/040,240 :
Filed: October 26, 2001 :
Attorney Docket No. 3468-61319/RJP :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 15, 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, 2001. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 1765 for further prosecution.

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

Conferee: Frances M. Hicks
Lead Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: RE 38,896

DATED: July 29, 2009

INVENTOR(S): Eric C. Anderson

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

The present reissue patent issued from an application that is one of a family of reissue applications resulting from Patent No. 6,011,585. The present reissue patent has issued without a cross reference to the other reissue application of the family which is required pursuant to 37 CFR 1.177(a). Accordingly, insert in the first sentence of the specification as follows:

-- Notice: More than one reissue application has been filed for the reissue of Patent No. 6,011,585. This reissue has a continuation application based upon it. The continuation application is 11/206,279. --

/Lin Ye/
Supervisory Patent Examiner, Art Unit 2622

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 23

DATE : Feb. 16, 2006

TO SPE OF : ART UNIT 2612 (Yen Vu Ngoc (Ngoc-Yen))

SUBJECT : Request for Certificate of Correction on Patent No.: RE,38,896

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the claim changes. Your denial or approval decision is needed below.

sp Stacy Powell

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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

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

Comments:

NGOC-YEN VU
SUPERVISORY PATENT EXAMINER

SPE 2612 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : RE 38,896 E
DATED : November 29, 2005
INVENTOR(S) : Eric C. Anderson

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 16,
Line 4, delete "the" after "includes".

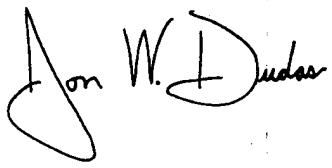
Column 17,
Line 4, delete "and" after "variable to".
Line 49, delete "further" after "selectively transferring".

Column 18,
Line 34, change "to portion" to -- top portion --.
Line 58, add -- to -- after "returning".

Column 19,
Line 60, delete "having" after "includes".

Signed and Sealed this

Thirtieth Day of May, 2006



JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : RE38,896 E

DATED : November 29, 2005

INVENTOR(S) : Eric C. Anderson

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 16, Line 4, please delete -- the -- after "includes".

Column 17, Line 4, please delete -- and – after "variable to".

Column 17, Line 49, please delete -- further -- after "selectively transferring".

Column 18, Line 34, please change --to portion -- to "top portion".

Column 18, Line 58, please add -- to -- after "returning".

Column 19, Line 60, please delete -- having --after "includes"

MAILING ADDRESS OF SENDER:

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

PATENT NO. RE38,896

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18602/06614/SF/5159743.1

JAN 30 2006

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5-17-2005

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: 6,869,204

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.

Magdalene Talley

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:

Doug K. Owens
SPE AU 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,869,204 B2

DATE : March 22, 2005

INVENTORS : Frederick M. Morgan et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On page 1, under (75) Inventors, please replace the paragraph as follows:

Inventors:

Frederick M. Morgan, Quincy, MA (US)
Ihor A. Lys, Boston, MA (US);
George G. Mueller, Boston, MA (US);
Kevin J. Dowling, Westford, MA (US);
Brian Roberge, West Roxbury, MA (US)

On page 1, under (63) Related U.S. Application Data

Continuation-in-part of application No. 09/669,121, filed on Sep. 25, 2000, now Pat. No. 6,806,659, which is a continuation of application No. 09/425,770, filed on Oct. 22, 1999, now Pat. No. 6,150,774, which is a continuation of application No. 08/920,156, filed on Aug. 26, 1997, now Pat No. 6,076,038. Continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on Dec. 17, 1998, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745, and a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, and a continuation-in-part of application No. 09/344,699, filed on Jun. 25, 1999, and a continuation-in-part of application No. 09/616,214, filed on Jul. 14, 2000, and a continuation-in-part of application No. 09/870,418, filed on May 30, 2001, and a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/805,590, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/870,193, filed on May 30, 2001, now Pat. No. 6,608,453, and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Pat. No. 6,166,496. Continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, which is a continuation of application No. 09/213, 548, filed on Dec. 17, 1998, now Pat. No. 6,166,496.

MAILING ADDRESS OF SENDER Customer Number 37462 PATENT NO. 6,869,204 B2

Joseph Teja, Jr., Reg. No. 45,157
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street, 11th Floor
Cambridge, MA 02142

FORM PTO-1050

762364.1

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,869,204 B2

DATE : March 22, 2005

INVENTORS : Frederick M. Morgan et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On page 1, under (75) Inventors, please replace the paragraph as follows:

Inventors:

Frederick M. Morgan, Quincy, MA (US)
~~Thor~~ Ihor A. Lys, Boston, MA (US);
George G. Mueller, Boston, MA (US);
Kevin J. Dowling, Westford, MA (US);
Brian Roberge, West Roxbury, MA (US)

On page 1, under (63) Related U.S. Application Data

Continuation-in-part of application No. 09/669,121, filed on Sep. 25, 2000, now Pat. No. 6,806,659, which is a continuation of application No. 09/425,770, filed on Oct. 22, 1999, now Pat. No. 6,150,774, which is a continuation of application No. 08/920,156, filed on Aug. 26, 1997, now Pat No. 6,076,038~~, said application No. 10/040,252, and a c~~ .Continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on ~~Feb.~~ Dec. 17, 1998, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745, and a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, and a continuation-in-part of application No. 09/344,699, filed on Jun. 25, 1999, and a continuation-in-part of application No. 09/616,214, filed on Jul. 14, 2000, and a continuation-in-part of application No. 09/870,418, filed on May 30, 2001, and a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/805,590, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/870,193, filed on May 30, 2001, now Pat. No. 6,608,453, and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Pat. No. 6,166,496~~, said application No. 10/040,252, and a c~~ . Continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, which is a continuation of application No. 09/213, 548, filed on Dec. 17, 1998, now Pat. No. 6,166,496~~, said application No. 10/040,252~~.

MAILING ADDRESS OF SENDER Customer Number 37462 PATENT NO. 6,869,204 B2

Joseph Teja, Jr., Reg. No. 45,157
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street, 11th Floor
Cambridge, MA 02142

762364.1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Nov. 24, 2004

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction on Patent No.: **6,781,329**

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.

Magdalene Talley

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:

MINSUN CHUNG
SPE EXAMINER

A.U. 2829

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,781,329 B2

DATE : August 24, 2004

INVENTORS : George G. Mueller, et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, after "Related U.S. Application Data," please replace section (63) with the following:

Continuation-in-part of application No. 09/669,121, filed on Sep. 25, 2000, which is a continuation of application No. 09/425,770, filed on Oct. 22, 1999, now Pat. No. 6,150,774, which is a continuation of application No. 08/920,156, filed on Aug. 26, 1997, now Pat. No. 6,016,038. Application No. 10/040,253 is a continuation-in-part of application No., 09/870,418, filed on May 30, 2001, and a continuation-in-part of application No. 09/870,193, filed on May 30, 2001, now Pat. No. 6,608,453, and a continuation-in-part of application No. 09/805,590, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Patent No. 6,166,496. Application No. 10/040,253 is a continuation-in-part of application No. 09/616,214, filed on Jul. 14, 2000, and a continuation-in-part of application No. 09/344,699, filed on Jun. 25, 1999, and a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, and a continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on Dec. 17, 1998, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745. Application No. 10/040,253 is a continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, which is a continuation of application 09/213,548, filed Dec. 17, 1998, now Patent No. 6,166,496.

In column 2, lines 2 and 3, please delete "continuation-in-part".

MAILING ADDRESS OF SENDER Customer Number 37462 PATENT NO. 6,781,329 B2

Joseph Teja, Jr., Reg. No. 45,157
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street, 11th Floor
Cambridge, MA 02142

SEP 2 2 2004

749214.1

FORM PTO-1050

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: 6,781,329 B2

DATE : August 24, 2004

INVENTORS : George G. Mueller, et al.

MARKED-UP COPY SHOWING CHANGES TO CERTIFICATE OF CORRECTION

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, after "Related U.S. Application Data," please replace section (63) with the following:

Continuation-in-part of application No. 09/669,121, filed on Sep. 25, 2000, which is a continuation of application No. 09/425,770, filed on Oct. 22, 1999, now Pat. No. 6,150,774, which is a continuation of application No. 08/920,156, filed on Aug. 26, 1997, now Pat. No. 6,016,038~~,~~ ~~a~~Application No. 10/040,253~~, which~~ is a continuation-in-part of application No., 09/870,418, filed on May 30, 2001, and a continuation-in-part of application No. 09/870,193, filed on May 30, 2001, now Pat. No. 6,608,453, and a continuation-in-part of application No. 09/805,590, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/805,368, filed on Mar. 13, 2001, and a continuation-in-part of application No. 09/742,017, filed on Dec. 20, 2000, now abandoned, which is a continuation of application No. 09/213,548, filed on Dec. 17, 1998, now Patent No. 6,166,496. Application No. 10/040,253 is a ~~and a~~ continuation-in-part of application No. 09/616,214, filed on Jul. 14, 2000, and a continuation-in-part of application No. 09/344,699, filed on Jun. 25, 1999, and a continuation-in-part of application No. 09/333,739, filed on Jun. 15, 1999, and a continuation-in-part of application No. 09/215,624, filed on Dec. 17, 1998, now Pat. No. 6,528,954, and a continuation-in-part of application No. 09/213,607, filed on Dec. 17, 1998, now abandoned, and a continuation-in-part of application No. 09/213,189, filed on Dec. 17, 1998, now Pat. No. 6,459,919, and a continuation-in-part of application No. 09/213,581, filed on Dec. 17, 1998, and a continuation-in-part of application No. 09/213,540, filed on Dec. 17, 1998, now Pat. No. 6,720,745~~, which is a continuation of application No. 09/213,548,~~ ~~a~~Application No. 10/040,253~~, which~~ is a continuation-in-part of application No. 09/815,418, filed on Mar. 22, 2001, now Pat. No. 6,577,080, ~~application No. 10/040,253.~~ which is a continuation of application 09/213,548, filed Dec. 17, 1998, now Patent No. 6,166,496.

MAILING ADDRESS OF SENDER Customer Number 37462 PATENT NO. 6,781,329 B2

Joseph Teja, Jr., Reg. No. 45,157
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street, 11th Floor
Cambridge, MA 02142

SEP 22 2004

749214.1

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

JOHN H. SHERMAN
C/O LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 SECOND STREET SE
CEDAR RAPIDS IA 52401

COPY MAILED

JUL 2 9 2002

OFFICE OF PETITIONS

In re Application of :
Steven E. Koenck :
Application No. 10/040,256 : DECISION ON PETITION
Filed: December 31, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 38219 RA :

This is a decision on the petition under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), filed July 15, 2002, to accept an unintentionally delayed claim for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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) and 1.78(a)(5). 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) and 1.78(a)(5) 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) and 1.78(a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

Petitioner seeks, by way of the instant petition, to amend the specification by inclusion of a reference to prior-filed nonprovisional Application No. 09/068,685, filed

May 13, 1998, which was the National Stage of International Application No. PCT/US96/17916, filed November 15, 1996, which claimed the benefit of U.S. Provisional Application No. 60/006,755, filed November 15, 1995.

It is noted that the declaration filed with the instant application referenced PCT/US96/17916 and provisional Application No. 60/066,755 (which should be "60/006,755") . Additionally, the transmittal letter submitted with the application included a reference to prior-filed nonprovisional Application No. 09/068,685. The Office noted the claim for priority of nonprovisional Application No. 09/068,685 and of provisional Application No. 60/066,755, the wrong application number as noted above, but not the claim for priority to the PCT application.

The instant pending application was filed on December 31, 2001, and was pending at the time of filing of the instant petition. Further, copendency exists between the instant application and between each of the prior-filed nonprovisional and provisional applications noted in the amendment, for which a claim for benefit of priority is now being sought. A reference to the prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(3) and 1.78(a)(6).

While a reference to prior-filed nonprovisional Application No. 09/068,685 was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in the transmittal letter for the instant application.

The current procedure where a claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application will be 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) and 1.78(a)(5). However, on the other hand, if the USPTO does not note the claim for priority to the prior-filed applications in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3) and 1.78(a)(6).[1] In the instant case, the Office noted the claim for priority to nonprovisional Application No. 09/068,685 in the transmittal letter, as shown by its inclusion on the filing receipt.

---

[1] Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

However, a petition is necessary in the instant application because a claim for the benefit of priority to the National Stage of International Application No. PCT/US96/17916 and the correct provisional application, namely, Application No. 60/006,755, was not included in the manner specified in 37 CFR 1.78(a)(2) and 1.78(a)(5).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed national stage PCT application and the provisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2) and 1.78(a)(5). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. §§ 120 and 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and 1.78(a)(6), the petition is granted as of the date of filing the petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for pre-examination processing and for mailing out a corrected Filing Receipt which includes a reference to the prior-filed applications and the projected publication date of the instant application.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061118

DATE : November 18, 2006

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction on Patent No.: 6,705,863

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:

Cris Rodriguez

SPE: Cris Rodriguez **Art Unit** 3732

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 4

DAVID B. RITCHIE
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE CA 95164-0640

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NOV 2 0 2002

OFFICE OF PETITIONS

In re Application of	:	
de Jong et al.	:	
Application No. 10/040,270	:	DECISION GRANTING
Filed: 29 October, 2001	:	PETITION
Attorney Dckt No. SUN-P6990	:	

This is a decision on the petition under 37 CFR 1.53(e) filed on 13 May, 2002, requesting that the above-identified application be accorded a filing date of 29 October, 2001, with Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification (description and claims) and drawing Figures 18 and 20 as a part of the original disclosure.

The petition is **GRANTED**.

On 29 October, 2001, the application was filed.

On 19 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 29 October, 2001, but that, *inter alia*, Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification (description and claims) and drawing Figures 18 and 20 appeared to have been omitted from the application.

In response, on 13 May, 2002, the present petition was filed. Petitioners argue that Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification and drawing Figures 18 and 20 were filed on 29 October, 2001. In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt bears a USPTO "Office date" stamp dated 10/29/01 and the above-identified application number, identifies the application by first named inventor's last name, invention title, and attorney docket number, and itemizes, *inter alia*, Application - Utility (93 pgs. with cover & abstract) and Drawings 55 # sheets

includes 62 figures. Petitioners also supplied a copy of the specification and drawings.

A review of the official file reveals that Pages 1-15, 17-51, 60-67, 71-73, 75-78, 80, 81, 87, 88, and 90-92 of the specification and 53 sheets of drawings containing Figures 1A-B, 2-8, 9A-B, 10-17, 19, 21-27, 28A-B, 29, 30A-B, 31, 32, 33A-B, 34-41, 42A-B, 43A-C, 44, 45, 46A-D, and 47-51, received on 29 October, 2001, are located therein. It is obvious that the entire specification, including the description, claims and abstract, consisted of 92 rather than 93 pages. However, since the individual at the USPTO who compared petitioners' postcard to the items received found that the specification (including claims and abstract) as filed contained at least 93 pages, the evidence is persuasive that Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification and two sheets of drawings containing Figures 18 and 20 were among the application papers received on 29 October, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office. The application, including Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification and two (2) sheets of drawings containing Figures 18 and 20, is therefore entitled to a filing date of 29 October, 2001.

The Notice mailed on 19 March, 2002, is vacated to the extent that it states that Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification (description and claims) and Figures 18 and 20 appeared to have been omitted. As the petition was necessitated by an error on the part of the Office, the petition fee of $130.00 will be credited to counsel's deposit account, No. 50-1698.

The application will be processed using Pages 1-15, 17-51, 60-67, 71-73, 75-78, 80, 81, 87, 88, and 90-92 of the specification and 53 sheets of drawings containing Figures 1A-B, 2-8, 9A-B, 10-17, 19, 21-27, 28A-B, 29, 30A-B, 31, 32, 33A-B, 34-41, 42A-B, 43A-C, 44, 45, 46A-D, and 47-51, filed on 29 October, 2001, and the copy of Pages 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification (description and claims) and the two (2) sheets of drawings Figures 18 and 20 supplied on 13 May, 2002 as the original disclosure. The copies of the other application papers supplied on 13 May, 2002, will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 29 October, 2001, using the application papers filed on that date and the

copy of 16, 52-59, 68-70, 74, 79, 82-86, and 89 of the specification (description and claims) and the two (2) sheets of drawings Figures 18 and 20 supplied on 13 May, 2002, and for an indication in Office records that 55 sheets of drawings and 11 claims were present on filing.

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
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Chicago, IL 60610

MAIL

JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:	:	
Lowell Wood, et al.	:	
Application No. 10/040,284	:	DECISION ON REQUEST TO
Filed: October 26, 2001	:	WITHDRAW FROM RECORD
For: OPTICAL COMMUNICATIONS SYSTEM AND METHOD	:	

This is a decision on the request to withdraw as attorney/agent of record and change of address filed on June 3, 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 of record 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: Skymoon Ventures
3045 Park Boulevard
palo Alto, CA. 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.9

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
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P.O. BOX 7599
LOVELAND, CO 80537-0599

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APR 23 2004

OFFICE OF PETITIONS

In re Application of :
Hiroshi Amano et al :
Application No. 10/040,328 : DECISION ON PETITION
Filed: December 19, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10991002-4 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 8, 2003, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US00/19387, filed July 14, 2000, set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on December 19, 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).

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 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 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 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 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 2828 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to prior-filed PCT Application No. PCT/US00/19387, filed July 14, 2000.

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

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WASHINGTON, D.C. 20231
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JJGJr.:05-02

Paper 4

RICHARD E. FICHTER
BACON & THOMAS, PLLC
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625 SLATERS LANE
ALEXANDRIA VA 22314-1176

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MAY 2 1 2002

OFFICE OF PETITIONS

In re Application of
Yang
Application No. 10/040,352
Filed: 9 January, 2002
Attorney Docket No. YANG3101/REF

NOTICE

This is a notice regarding:

- the request for acceptance of a fee deficiency submission under 37 C.F.R. §1.28,[1] and

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[1] The regulations at 37 C.F.R. §1.28 provide:

§ 1.28 Refunds when small entity status is later established; how errors in small entity status are excused.

(a) *Refunds based on later establishment of small entity status.* A refund pursuant to § 1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

(b) *Date of payment.*

(1) The three-month period for requesting a refund, pursuant to paragraph (a) of this section, starts on the date that a full fee has been paid;

(2) The date when a deficiency payment is paid in full determines the amount of deficiency that is due, pursuant to paragraph (c) of this section.

(c) *How errors in small entity status are excused.* If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section:

(1) *Separate submission required for each application or patent.* Any paper submitted under this paragraph must be limited to the deficiency payment (all fees paid in error), required by paragraph (c)(2) of this section, for one application or one patent. Where more than one application or patent is involved, separate submissions of deficiency payments *(e.g.*, checks) and itemizations are required for each application or patent. See § 1.4(b).

(2) *Payment of deficiency owed.* The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(i) *Calculation of the deficiency owed.* The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, *(e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3) *Failure to comply with requirements.* If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(d) *Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

[47 Fed. Reg. 40140, Sept. 10, 1982, added effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 553, Jan. 4, 1984, effective Apr. 1, 1984; para. (d)(2), 57 Fed. Reg. 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (c) revised, 58 Fed. Reg. 54504, Oct. 22, 1993, effective Jan. 3, 1994; para. (a) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a) & (c) revised, 62 Fed. Reg. 53131, Oct. 10 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

- the notice of associate attorney, which ignores the prohibition under 37 C.F.R. §1.33(a)[2] (Rule 33(a)) against communication with multiple counsel.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. §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.. No. 97-1128, -1280, -1453, 1998 U.S. App. LEXIS 21409, at *30 (Fed. Cir. Sept. 1, 1998).

Therefore, the fee deficiency submission under 37 C.F.R. 1.28 is hereby **ACCEPTED**.[3]

Inquiries related to this communication should be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] The regulations at 37 C.F.R. §1.33 provide, in pertinent part:

§1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.
(a)*Correspondence address and daytime telephone number* .When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76)),or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see § § 1.76(b)(1)and 1.63(c)(2))as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address.

[3] The $85.00 deficiency was paid by check upon the filing of the 28 February, 2002, petition. However, in view of DH Technology, no petition to revive is necessary.

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THOMAS KAYDEN HORSTEMEYER & RISLEY LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA, GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Jean-Dean Yang et al :
Application No. 10/040,352 :
Filed: January 9, 2002 :
Attorney Docket No. YANG3101/REF

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEFFREY T. HELVEY
1100 NEW YORK AVENUE, N.W.
SUITE 600
WASHINGTON DC 20005-3934

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OFFICE OF PETITIONS

In re Application of :
Gomez et al :
Application No. 10/040,376 : ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 1875.0610000 :

This is a decision on the petition, filed March 29, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 22, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2817 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

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

ON PETITION

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

In re Application of
Jorn Borch Soe et al
Application No. 10/040,394
Filed: January 9, 2002
Attorney Docket No. 674509-2045.1

This is a decision on the petition, filed November 5, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 19, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1761 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

Copy Only

Paper No.

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE - 10TH FL.
NEW YORK, NY 10151

COPY MAILED

NOV 0 6 2003

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Jorn Borch Soe et al :
Application No. 10/040,394 :
Filed: January 9, 2002 :
Attorney Docket No. 674509-2045.1 :

This is a decision on the petition, filed November 5, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 19, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries 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 1761 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. 8

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

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NOV 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
BAYOUMI et al.	:	
Application No. 10/040,407	:	DECISION GRANTING PETITION
Filed: December 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	
ABTT-0266/B010130	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2003, to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

The present nonprovisional application became the subject of an application filed in the PCT Office on December 19, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of March 4, 2004, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2125 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DOUGHERTY & TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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FEB 27 2004

OFFICE OF PETITIONS

In re Application of :
Han-Chung Lai et al :
Application No. 10/040,484 : NOTICE
Filed: January 9, 2002 :
Attorney Docket No. BHT-3167-34 :

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.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 10 2004

Paper No. 7

In re Application of
Hsin-Chi Chen
Application No. 10/040,494
Filed: January 9, 2002
Attorney Docket No. DED/3098/103

: DECISION ON PETITION

This is a decision on the petition filed on November 14, 2003 by which petitioner requests withdrawal of the Notice of Abandonment dated September 12, 2003 and restarting of the time period in which to file a reply to the outstanding Office letter dated February 4, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no petition fee is required.

The petition is dismissed.

Petitioner alleges that this application is not abandoned and that the period for filing a reply to the outstanding Office action should be restarted because the outstanding Office letter was not mailed to the correct correspondence address of record. In support of this allegation, petitioner has submitted a copy of a paper styled "Change of Address" that requests that the correspondence address for this application be changed effective March 18, 2002. However, petitioner has not provided any evidence showing that this paper was actually filed in the Office, such as a copy of a post card filing receipt therefor. Absent evidence that establishes that a change of correspondence address was filed prior to the mailing of the outstanding Office letter, there is insufficient evidence to support a holding that this application is not abandoned due to failure to receive the outstanding Office letter.

Petitioner may file a renewed petition, without fee. The renewed petition should provide evidence showing that a request to change of correspondence address was filed in this application prior to February 4, 2003. The renewed petition must be filed within two months of the date of this Decision. See 37 CFR 1.181(f).

The application is being retained in Technology Center 3700 pending further action by petitioner.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

David E. Dougherty
Dennison, Schultz, Dougherty & MacDonald
1727 King Street
Suite 105
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

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DEC 20 200

OFFICE OF PETITIONS

In re Application of
David J. Long, et al.
Application No. 10/040,500
Filed: December 28, 2001
Attorney Docket No. 50277-1767

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 18, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 17, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2192 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances M. Hicks
Petition Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

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DEC 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
David J. Long, et al.	:	
Application No. 10/040,500	:	DECISION GRANTING PETITION
Filed: December 28, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50277-1767	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 18, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 17, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2192 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks

Frances M. Hicks
Petition Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

Thomas M. Freiburger
25th Floor
650 California Street
San Francisco CA 94108

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JUL 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Troyer, Thornton, Whiting & Kaufman : LETTER
Application No. 10/040,508 :
Filed: December 28, 2001 :
Attorney Docket No. 573-1 :

This letter is in response to the petition under 37 CFR 1.47(a) filed on February 4, 2002 and supplemented on July 10, 2002.

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioners have submitted a copy of the executed oath or declaration filed in Application No. 09/725,608, of which the instant filing is a divisional application. Furthermore, petitioner has submitted a copy of the decision, mailed on , granting a petition to accord § 1.47 status to the prior 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. No fee has been or will be charged.

The Office will not forward notice of this application's filing to the non-signing inventor because notice regarding the filing of the prior application has already been sent to the non-signing inventor.

After this decision is mailed, the application will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-67212.

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. 9

COOLEY GODWARD LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

MAILED

SEP 3 0 2003

Technology Center 2100

In re Application of:
Sharma DIPANSHU
Application No.: 10/040,525
Filed: December 28, 2001
For: INFORMATION RETRIEVAL SYSTEM INCLUDING VOICE BROWSER AND DATA CONVERSION SERVER

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 July 11, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on July 17, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Fish & Richardson P.C. as the attorneys of record of the instant application. The Power Of Attorney of July 17, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Scott C. Harris, et al.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Scott C. Harris
Fish & Richardson P.C.
4350 La Jolla Village Drive
Suite 500
San Diego, CA 92122

UNITED STATES 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 I. WOLFSON
REED SMITH LLP
599 LEXINGTON AVENUE
29TH FLOOR
NEW YORK, NY 10022-7650

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APR 18 2005

OFFICE OF PETITIONS

In re Application of :
Eric Wood :
Application No. 10/040,528 : ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. ITI-138D (20109.65) :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 11, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before December 15, 2004. Receipt is acknowledged of the requisite issue/publication on February 11, 2005.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

COPY MAILED

OCT 2 3 2002

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,534
Filed: December 28, 2001
Attorney Docket No.
111228CX3.US
Title: FREQUENCY SYNTHESIZER FOR DUAL MODE RECEIVER

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b) [1], filed August 12, 2002.

The petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on December 28, 2001, without an executed oath or declaration and identifying Nigel J. Tolson as the sole inventor. On February 6, 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 37 CFR §1.63, a surcharge for the late filing of the oath or declaration, and the filing fee. This Notice set a two-month period for reply.

In reply, applicant filed the original petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, and a four-month extension of time to make timely this reply. Petitioner further included a copy of the non-signing inventor's employment agreement, as well as a copy of an e-mail from the non-signing inventor.

Rule 47 applicant has met requirements (1), (2), (3), and (8) above.

Regarding the fourth requirement above, the e-mail fails to list precisely what was sent to the non-signing inventor, and merely mentions "docs". As such, it fails to establish that a complete copy of the application papers were sent to the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[2] On renewed petition, it should be established that a complete copy of the application was sent to the non-signing inventor at his last known address.

Regarding the fifth requirement above, it follows that since it has not been shown that a complete copy of the application was sent to the inventor, one cannot refuse to sign something which one has not seen. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

Regarding requirement (6), Rule 47(b) applicant has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application[4]. The declaration sets forth that the non-signing inventor used to be employed by the purported assignee. Petitioner has also included a copy of the employment agreement. Unfortunately, no assignment documents have been provided, and no Reel and Frame number where the recordation of this assignment may be found has been provided. Furthermore, there is no record in the PTO's Patent Application Location and Monitoring System of an Assignment involving this application. Furthermore, no

2 See MPEP 409.03(d).
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

4 See MPEP §409.03(f).

the "Inventions" section of the employment agreement (found on page 8) explicitly states that the employee is obligated to assign only those inventions which relate "either directly or indirectly to the business of the employer" (paragraph 17.1), and no statement has been made to establish that the present invention falls within these parameters. These facts fail to establish that the petitioner has any proprietary interest in the application at hand.

Regarding the seventh requirement above, no proof of irreparable damage has been submitted[5]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[6]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[7]), the reply may be mailed[8].

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). However, no final determination has been made on fees for FY03 at this point, and fiscal year 2003 was started with the same fee structure as last fiscal year. Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent. For more information, see www.USPTO.gov, click on "News and Notices", and under the "Patents" column you will find the above information[9].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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5 See MPEP §409.03(g).
6 (703) 308-6916, Attn: Office of Petitions.
7 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
8 Commissioner for Patents, Box DAC, Washington, DC 20231.
9 The direct URL is: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/feenotice.htm

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Nigel J. Tolson
5 Brading Way
Puley-on-Thames
Reading, Berks GB RG8 8BS
ENGLAND

COPY MAILED

MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,534
Filed: December 28, 2001
Attorney Docket No. 111228CX3.US
Title: FREQUENCY SYNTHESIZER FOR DUAL MODE RECEIVER

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(b)

Dear Mr. Tolson:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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MAR 1 4 2003

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,534
Filed: December 28, 2001
Attorney Docket No.
111228CX3.US
Title: FREQUENCY
SYNTHESIZER FOR DUAL
MODE RECEIVER

DECISION ON RENEWED
PETITION UNDER
37 C.F.R. §1.47(b)

This is in response to the petition under 37 CFR §1.47(b) [1], filed December 23, 2002.

The above-identified application was filed on December 28, 2001, without an executed oath or declaration and identifying Nigel J. Tolson as the sole inventor. On February 6, 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 37 CFR §1.63 and a surcharge for the late filing of the oath or declaration. This Notice set a two-month period for reply.

The original petition was dismissed for failure to meet requirements (4) – (7) above.

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1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that a complete copy of the application was sent or given to each of the non-signing inventors for review;
(5) proof that each of the non-signing inventors refused to sign, or cannot be reached after diligent efforts;
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

With the renewed petition, petitioner has submitted a declaration of facts which corrects each of the previously indicated deficiencies. Petitioner has attested, on his registration number, that he sent a complete copy of the instant application to the non-signing inventor; the non-signing inventor stated that he had received it; the purported invention is directly related to the business of the purported assignee; said purported assignee is the rightful assignee of this invention, and; irreparable damage would result if this petition was not granted.

As such, the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not 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 Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

COPY MAILED

DEC 12 2005

OFFICE OF PETITIONS

In re Application of :
Nigel J. Tolson :
Application No. 10/040,534 : DECISION ON PETITION
Filed: December 28, 2001 : TO WITHDRAW
Attorney Docket No. 034942-267 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Robert E. Krebs and all the attorneys listed on the paper filed on March 11, 2003 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicants.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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OCT 0 3 2002

OFFICE OF PETITIONS

In re Application of	:
Nigel J. Tolson	:
Application No. 10/040,535	: DECISION REFUSING STATUS
Filed: 28 December, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 111228TWT.US	:

This is in response to the petition filed on 12 August, 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 28 December, 2001, without an executed oath or declaration.

Accordingly, on 5 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 August, 2002 (certificate of mailing date 6 August, 2002), the present petition was filed, accompanied by the late filing surcharge, and a four (4) month extension of time.

Petitioner asserts that the inventor has refused to sign the

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 items (1), (2), and (6).

In regards to item (1), petitioners must supply proof that a copy of the application (specification including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review.[1] Petitioners should submit a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign can be alleged, petitioners must show that the application papers were sent or given to the non-signing inventor. If the inventor refuses to sign the declaration in writing after being sent or given the application, a copy of that written refusal should be supplied with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The 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

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[1] MPEP 409.03(d).

signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[2]

As to item (6), petitioners must provide a statement that the filing is necessary to prevent irreparable damage or to preserve the rights of the parties.[3]

Although petitioners submitted a request for a four (4) month time extension, counsel's deposit account was inadvertantly charged for a five (5) month extension of time. However, since the transmittal sheet accompanying and itemizing the filing of the petition and time extension request contains a valid certificate of mailing dated 6 August, 2002, only a four (4) month extension of time is required. The different will therefore be credited to counsel's deposit account, No. 50-1788.

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

---

[2]MPEP 409.03(b).

[3]MPEP 409.03(g).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 7

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of	:
Nigel J. Tolson	:
Application No. 10/040,535	: DECISION ACCORDING STATUS
Filed: 28 December, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 111228TWT.US	:

This is in response to the renewed petition filed by facsimile on 12 August, 2002, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown, via the declaration of registered patent attorney Michael J. Ure, that a copy of the application was sent via E-mail to the non-signing inventor. The inventor, however, failed to sign and return the declaration naming him as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the employment agreement between the non-signing inventor and 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 Technology Center 2600 for examination in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Nigel J. Tolson
5 Brading Way, Purley-on-Thames
Reading, Berks RG8 8BS
GREAT BRITAIN

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DEC 1 1 2002

OFFICE OF PETITIONS

In re Application of
Nigel J. Tolson
Application No. 10/040,535
Filed: 28 December, 2001
For: TWIN-T DUAL NOTCH FILTER

Dear Mr. Tolson:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703 308-6918. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

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PTO/SB/21 (08-00)
Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/040,535
Filing Date	December 28, 2001
First Named Inventor	Nigel J. Tolson
Group Art Unit	2681
Examiner Name	Kinkead, A.
Total Number of Pages in This Submission: 7	Attorney Docket Number: 034942-268

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Response
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☒ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

  Declaration and Consent of Assignee; Statement under 37 CFR 3.73(b);copy of Decision According Status Under 37 CFR 1.47(b);Change of Attorney Docket Number and Change of Address Notice

Remarks

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Technology Center 2600

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Robert E. Krebs, Esq., Reg. No. 25,885 - Thelen Reid & Priest LLP
Signature	Robert E. Krebs
Date	Feb 24, 2003

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: Feb. 25, 2003

Typed or printed name	Diane Morse		
Signature	Diane Morse	Date	2-25-03

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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Paper No. 7

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OFFICE OF PETITIONS

In re Application of	:	
Nigel J. Tolson	:	
Application No. 10/040,535	:	DECISION ACCORDING STATUS
Filed: 28 December, 2001	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 111228TWT.US	:	

This is in response to the renewed petition filed by facsimile on 12 August, 2002, under 37 CFR 1.47(b).

The petition is **GRANTED**.

Petitioner has shown, via the declaration of registered patent attorney Michael J. Ure, that a copy of the application was sent via E-mail to the non-signing inventor. The inventor, however, failed to sign and return the declaration naming him as the sole inventor. Additionally, petitioners have shown proprietary interest by providing a copy of the employment agreement between the non-signing inventor and 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 Technology Center 2600 for examination in due course.

CPI
Excel

Telephone inquiries regarding this communication should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

THELEN REID & PRIEST, LLP
P. O. BOX 640640
SAN JOSE, CA 95164-0640

In re Application of	:	
Tolson, Nigel J.	:	DECISION ON PETITION
Application No. 10/040,535	:	TO WITHDRAW
Filed: December 28, 2001	:	FROM RECORD
Attorney Docket No. US49	:	

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 12, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Robert E. Krebs and the other attorneys of record has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to 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:

TROPIAN INC.
20813 STEVENS CREEK BLVD.
CUPERTINO CA 95014

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/4/07

Paper No.: —

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/040535 Patent No: 7127226B2

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: The Certificate of Correction received on 5/16/2007 is the correction to be entered.

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2618
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

Applied Biosystems
850 Lincoln Center Drive
Foster City, CA 94404

In re Application of
Madabushi et al.
Application No. 10/040,539
Filed: December 28, 2001
Attorney Docket No. 4221 C6

: DECISION DISMISSING LETTER

This letter is in response to applicants' "NOTICE OF ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT" filed September 19, 2005, advising the Office of a discrepancy in the PTA determination. The Office thanks applicants for their good faith and candor in bringing any discrepancy to the attention of the Office.

The letter submitted by Applicants is **Dismissed.** The patent term adjustment at the time of the mailing of the notice of allowance is confirmed.

Applicants assert that there is a discrepancy in the PTA determination as to what applicants' believe the value to be. Applicants believe the value is 352 days at the time of the mailing of the notice of allowance.

Upon review of the determination, the PTA determination is accurate. The Office notes that it failed to act upon the application within fourteen months of the filing of the application, a delay of four hundred and twenty-four (424) days.[1] See 37 CFR 1.702(a)(1). This delay was the only Office delay incurred by the USPTO. On one occasion, applicants failed to reply to the Office action within three months.[2] The delay amounted to thirty-seven days. Accordingly, the overall determination at the time of the mailing of the notice of allowance is three hundred and eighty-seven (424-37 =387) days. The Office does not see any additional delays by the applicant that would amount to the 25 day discrepancy. If applicants want the Office to review any particular entry, applicant should outline such discrepancy.

The Office will forward the application to the Office of Publications for a prompt issuance of the patent.

The Office apologizes for any delay in issuance of the application into a patent. Any PTA related to failing to issue the application within four months of the payment of the issue fee as well as any failures to issue the application within three years will be determined at the time of the

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[1]The application was filed on December 28, 2001 and the requirement of 37 CFR 1.702(a)(1) was met on April 27, 2004, a 424 day delay.

[2]Applicants responded the Office action mailed 7/26/2004 on February 24, 2005,, a thirty-seven (37) day delay.

issuance of the patent and notice will be provided in the issue notification letter.

Because this letter was submitted out of good faith and candor, no fee will be assessed concerning this letter.

Any questions related to this decision can be addressed to Kery Fries, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

Charles K. Young
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles CA 90025-1026

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FEB 0 5 2004

OFFICE OF PETITIONS

In re Application of
Jun Su, et al.
Application No. 10/040,581
Filed: December 28, 2001
Attorney Docket No. 42390.P13379

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit substitute drawings in a timely manner in reply to the Notice To File Missing Parts of NonProvisional Application mailed February 13, 2002, which set a shortened statutory period for reply of two(2) months. Accordingly, the application became abandoned on April 14, 2002.

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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

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OFFICE OF PETITIONS

In re Application of :
Bhakta : DECISION ON PETITION
Application No. 10/040,603 :
Filed: January 7, 2002 :
Atty. Dkt. No.: 406990 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 27, 2006 for failure to timely submit a proper reply to the final Office action mailed September 26, 2006. The final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed March 29, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a 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(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action 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 extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application file is being forwarded to Technology Center 2100 for processing of the RCE submitted herewith.

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
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: Rakesh Bhakta	: DECISION ON REQUEST FOR
Patent Number	: 7506172	: RECALCULATION of PATENT
Issue Date	: 03/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/040,603	: OF WYETH
Filed	: 01/07/2002	:
		:

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
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: David Harriman	: DECISION ON REQUEST FOR
Patent Number	: 7581026	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/040,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **609** 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

Paper No.

David J. Kaplan
Intel Corporation, SC4-202
2200 Mission College Blvd
Santa Clara CA 95052

COPY MAILED

JUL 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Orenstien et al.	:	DECISION ON
Application No. 10/040,608	:	PETITION
Filed: December 28, 2001	:	
Attorney Docket No. P10720	:	
	:	

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION, filed June 19, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee within three months of the mailing date, February 8, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on May 8, 2005. A courtesy Notice of Abandonment was mailed on July 28, 2005.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It appears that petitioner has used an older version of the petition form for 1.137(b) petitions. It is unclear whether this form has been altered. In an abundance of caution, petitioner is reminded that if any part of the preprinted text

[1] Formal drawings were previously submitted.

of a PTO form is modified, deleted or added to, the form number and the OMB information in the header and footer of the form MUST be removed from the altered form.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,658,699	2003-12-09	10040626	2002-01-09	3092-261

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bruce H. Troxell/	Date (YYYY-MM-DD)	2008-07-07
Name	Bruce H. Troxell	Registration Number	26592

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6658699
Issue Date: December 9,2003
Application No. 10040626
Filed: January 9,2002
Attorney Docket No. BHT-3092-261

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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

LAWRENCE Y.D. HO & ASSOCIATES PTE LTE
THONGSIA BUILDING
30 BIDEFORD ROAD, #07-01
SINGAPORE 22992-2 SG SINGAPORE

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Poh Leong Er :
Application No. 10/040,652 : ON PETITION
Filed: October 19, 2001 :
Attorney Docket No. 1008.P002US/HCH/mms :

This is a decision on the petition, filed February 2, 2005, under 37 CFR 1.137(b) 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 February 27, 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, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 28, 2004.

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: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

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JUN 12 2003

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/040,702 : ON PETITION
Filed: December 28, 2001 :
Attorney Docket No. 42390.P13768 :

This is a decision on the petition under 37 CFR 1.137(f), filed May 20, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS INAPPROPRIATE.**

The record discloses that on December 28, 2001, the date of filing of the instant application, a Request and Certification under 35 USC 122(b)(2)(B)(i) was filed, certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing."

Petitioner now requests under 35 USC 122(b)(2)(B)(ii) that the Request and Certification under 35 USC 122(b)(2)(B)(i) be rescinded and the application revived because this application became abandoned for failure to notify the Office within 45 days of the filing of a corresponding international or foreign application. In this regard, petitioner states that an international or foreign application corresponding to the instant application was filed on **December 6, 2001**, which date is **prior** to the date of filing the instant application.

The instant nonprovisional application did not become abandoned as a result of the published international application filed prior to the present application. In this regard, 35 USC 122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application.** A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional (emphasis added).

The facts of this case are that the subject application was filed on December 28, 2001, and the coresponding application was filed on December 6, 2001. The statute does not provide for the situation where a certification under 35 USC 122(b)(2)(B)(i) was made, despite the fact that an application was previously filed in another country or under a multilateral agreement. The statute at 35 USC 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 USC 122(b)(2)(B)(i) at the time of filing the application and an application was subsequently filed in a foreign country without notifying the Office within 45 days of the filing thereof.

In view of the above, and since this application did not become abandoned pursuant to the provisions of 35 USC 122(b)(2)(B)(iii), a petition to revive under the provisions of 37 CFR 1.137(f)is inappropriate and must be dismissed.

As requested, the Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request indicating a projected publication date of September 18, 2003 accompanies this decision.

The rules and statutory provisions governing the operations of the US Patent and Trademark Office require payment of a fee on filing each petition. 35 USC 41(a)(7). Payment of the $1,300 petition fee is acknowledged.

The application is being forwarded to the Technology Center 2600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request
(1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 07-02

Paper No. 4

MCCORMICK, PAULDING & HUBER
CITY PLACE II
185 ASYLUM STREET
HARTFORD CT 06103-3402

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JUL 05 2002
OFFICE OF PETITIONS

In re Application of :
Nakahara et al. :DECISION GRANTING PETITION
Application No. 10/040,738 :
Filed: 1 November, 2001 :
Attorney Docket No. 6731-01 :

This is a decision on the petition filed on 11 March, 2002, requesting that the above-referenced application be accorded a filing date of 1 November, 2001, with Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 as a part of the original disclosure.

The petition is **GRANTED**

The application was filed on 1 November, 2001. On 12 February, 2002, Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application," stating that the application had been accorded a filing date of 1 November, 2002, but that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification appeared to have been omitted from the application.

In response, on 11 March, 2002, the present petition was filed, accompanied by, *inter alia*, one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2. Petitioners assert that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification were included in the Japanese priority document filed concurrently with the application, and which was incorporated by reference in the first paragraph of the specification of the present application by the Preliminary Amendment filed with the original application papers on 1 November, 2001.

A review of the priority document submitted on 1 November, 2001, reveals that it does include one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 which appear to be

identical to the one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 which was intended to be filed on 1 November, 2001, and which appears to correspond to the figure described in the specification. Accordingly, on petition, the drawings of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 in the Japanese priority document will be construed as the drawing of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 described in the specification for filing date purposes.

The copy of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 with English text supplied with the present petition will be used for processing and examination. As the Notice correctly stated that Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 *appeared* to have been omitted, the petition fee of $130.00 will not be refunded.

Petitioners' statement that the above-identified application "was intended to be an English language counterpart of the Japanese priority application" is being construed as a statement in accordance with 37 CFR 1.52(d) that the copy of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 is an accurate English translation of Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 included in the Japanese priority document filed with the original application papers. Petitioners **must** inform the Office if this is an incorrect interpretation.

The application file is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 1 November, 2001, using the application papers filed on 1 November, 2001, and the copy supplied on 11 March, 2002, of the English translation of the one (1) sheet of drawings containing Figures 3A-1, 3A-2, 3B-1, 3B-2, 3C-1, and 3C-2 in the Japanese priority document filed with the present application on 1 November, 2001, and for an indication in Office records that seven (7) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 7

James W. Hiney, Esq.
Suite 1100
1872 Pratt Drive
Blacksburg VA 24060

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NOV 14 2003
OFFICE OF PETITIONS

In re Application of

Rediniotis, et al. :

Application No. 10/040,751

: DECISION ON PETITION

Filed: January 8, 2002

:

Attorney Docket No. T1

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 11, 2002, 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 December 12, 2002. A Notice of Abandonment was mailed on April 8, 2003.

The amendment filed October 22, 2003, are noted and made of record.

The request for an extension of time filed November 3, 2003, is noted and made of record, however; the request was made outside the maximum statutory period set for reply and cannot be granted. The amount of $475.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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JUN 13 2003

OFFICE OF PETITIONS

In re Application of
David Harriman
Application No. 10/040,~~775~~ 755
Filed: December 28, 2001
Attorney Docket No. 42390.P13766

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 20, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on December 28, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On May 30, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on December 5, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

---

[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 2600 for processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES 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

PETER K KONTLER
4401 GULF SHORE BLVD NORTH
NAPLES FL 34103-3450

COPY MAILED

AUG 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Christoper Raber :
Application No. 10/040,771 : DECISION ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 0756 C PCT Cont. US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 25, 2003, (Certificate of Mailing dated June 30, 2003), to accept an unintentionally delayed claim under U.S.C. §§ 120 and 365(c) for the benefit of International Application No. PCT/DE00/02275, filed July 7, 2000.

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 1.78(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(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 application does not comply with item (2) above.

Petitioner has not submitted the full amount of the petition fee. Accordingly, the petition can not be considered on the merits. At the time of filing the petition, the petition fee was $1,300. Petitioner submitted $1,280. No authorization to charge a deposit account could be found in the application file.

Currently, the petition fee is $1,330. If petitioner desires to file a renewed petition, petitioner must submit the balance of the petition fee due, or $50.

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 should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Brian Pearson

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PETER K KONTLER
4401 GULF SHORE BLVD NORTH
NAPLES FL 34103-3450

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AUG 26 ;

OFFICE OF PETITIONS

In re Application of :
Christoph Raber :
Application No. 10/040,771 : DECISION ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 0756 C PCT Cont. US :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 9, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/DE00/02275, filed July 7, 2000, set forth in the amendment previously filed on May 30, 2003.

On July 25, 2003, applicant filed a petition under 37 CFR 1.78(a)(3). However, the petition was dismissed in a decision mailed on August 9, 2004, because petitioner did not pay the petition fee in full. Consideration of the renewed petition follows.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed PCT application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title[1], as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, 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 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 application should not be construed as meaning that applicant is

[1] It is noted that the amendment filed May 30, 2003 includes a reference to prior filed foreign applications. However, the reference to the foreign applications is more appropriately made in the oath or declaration or an application data sheet, and not in the first line of the specification following the title.

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 application, accompanies this decision on petition.

Petitioner paid a petition fee in the amount of $1,280 on July 25, 2003. The $50 balance due has been charged to Deposit Account No. 11-1545, as authorized.

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 the examiner of Technology Center Art Unit 3681 for appropriate action on the amendment filed July 25, 2003, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Frances Hicks
Petitions Examiner
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORGAN LEWIS & BOCKIUS
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Michael Burrows et al :
Application No. 10/040,774 : ON PETITION
Filed: December 28, 2001 :
Attorney Docket No. 9772-0337-999 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2192.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

IAW

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OIPE IAP46
OCT 05 2005
PATENT & TRADEMARK OFFICE

MORGAN LEWIS & BOCKIUS
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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SEP 23 2005
OFFICE OF PETITIONS

In re Application of
Michael Burrows et al
Application No. 10/040,774
Filed: December 28, 2001
Attorney Docket No. 9772-0337-999

ON PETITION

RECEIVED
OIPE/IAP
OCT 06 2005

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 3, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 4, 2005.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

BUCHANAN INGERSOLL PC
SEP 27 2005
DOCKETED

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2192.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BURNS DOANE SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael V. Drew, Esq.
MeadWestvaco Corporation
299 Park Avenue – Law Department
New York, NY 10171

COPY MAILED

NOV 0 1 2004

OFFICE OF PETITIONS

In re Application of :
John Gelardi, et al. :
Application No. 10/040,775 : ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. PRG 01-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 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 reffered to Technology Center 3700.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090123

DATE : January 23, 2009

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 6787332

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 5

LYNCH, COX, GILMAN & MAHAN, P.S.C.
SUITE 2200
400 WEST MARKET STREET
LOUISVILLE KY 40202

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AUG 1 4 2002

OFFICE OF PETITIONS

In re Application of	:	
Dick, Kimura, Schepf, Morgan,	:	
Luong, Robertson, and Gaffney	:	DECISION ACCORDING STATUS
Application No. 10/040,794	:	UNDER 37 CFR 1.47(a)
Filed: 7 January, 2002	:	
Atty Dkt P-1047	:	

This is in response to the petition under 37 CFR 1.47(a), filed on 22 July, 2002.

The petition is **GRANTED**.

Petitioners have shown that non-signing inventor Tim Luong has refused to sign the application and that non-signing inventor Greg Morgan cannot be found. Specifically, petitioners have shown that a copy of the application was sent by Certified Mail to the last known addresses of both inventors. Joint inventor Luong returned the Certified Mail receipt but failed to sign and return the declaration. Additionally, the application sent to joint inventor Morgan was returned as undeliverable.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

It is also noted that the "Added Page to Combined Declaration" filed by facsimile with the petition on 22 July, 2002, states that joint inventor Dick is signing on behalf of non-signing joint inventors Morgan and Luong. 37 CFR 1.47(a) requires, however, that all signing inventors sign on behalf of themselves and on behalf of all of the non-signing inventors. Since the declaration has been signed by all of the signing inventors, the oath or declaration signed by joint inventors Dick, Kimura, Schepf, Robertson, and Gaffney is being construed has having been signed on behalf of themselves and non-signing joint inventors Morgan and Luong. Petitioners must inform the office if this is not a correct interpretation.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 6,666,821

DATED : December 23, 2003

INVENTOR(S) : Keimel

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column, 11,
Line 27, after "environment" insert --; a processing circuit to process sensor sgnals provided by the one or more activated sensors, wherein an output of the processing circuit is used to determine a therapy to be delivered --.
Line 33, delete claim 13.

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Washington, D.C. 20231
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Paper No. 8

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Andrew C. Gilbert et al :
Application No. 10/040,837 : DECISION GRANTING PETITION
Filed: January 7, 2002 : UNDER 37 CFR 1.137(f)
Attorney Docket No. CF-51 :

This is a decision on the petition, filed April 9, 2003, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on December 30, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [Notice to Rescind Previous Nonpublication Request Under 35 U.S.C. § 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A corrected Filing Receipt which sets forth the projected publication date of July 24, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3628 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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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 :

GILBERT, Andrew C. et al. :
Application No. 10/040,837 : DECISION ON PETITION
Filed: January 07, 2002 : 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 third 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: **MARY ANN GLIBERT**
5 SCARLET OAK ROAD
CALIFON, NJ 07830

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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JUL 24 2008

In re Application of	:	
GILBERT et al.	:	DECISION ACCORDING STATUS
Application No. 10/040,837	:	UNDER 37 CFR 1.47(a)
Filed: 01/07/2002	:	
Attorney Docket No. 02-1051	:	
Title: METHODS AND SYSTEMS FOR PROVIDING CROSSING MARKETS	:	

This is in response to the petition under 37 CFR 1.47(a), filed July 3, 2002. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioners showed that the legal representative of the deceased inventor constructively 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 are 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 legal representative at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center AU 3692.

Inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Ms. Mary Ann Gilbert
5 Scarlet Oak Drive
Califon NJ 07830

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JUL 24 2008

In re Application of :
GILBERT et al. :
Application No. 10/040,837 :
Filed: 01/07/2002 : LETTER
Attorney Docket No. 02-1051 :
Title: METHODS AND SYSTEMS FOR :
PROVIDING CROSSING MARKETS :

Dear Ms. Gilbert:

You are named as the legal representative of deceased inventor, Andrew Gilbert, 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 legal representative.

As a 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.

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 Services at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

DEAN P. ALDERUCCI
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

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Alexandria, VA 22313-1450
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Paper No. 092004

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306

OCT 20 2005

In re Application of:	:	
TOMMY K. ENG	:	DECISION ON REQUEST TO WITHDRAW
Serial No.: 10/040,852	:	FROM RECORD
Filed: December 28, 2001	:	
Attorney Docket No.: **21192-06625**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 15, 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 Sterne, Kessler, Goldstein & Fox P.L.L.C. was filed on July 22, 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 from the Office will 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: STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE
WASHINGTON, DC 20005

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of :
Tommy K. Eng :
Application No. 10/040,852 : DECISION GRANTING PETITION
Filed: December 28, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 21192-06625 :

This is a decision on the petition, filed November 18, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 29, 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 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED
JUL 31 2006
OFFICE OF PETITIONS

In re Patent No. 6,936,448	:	
Issue Date: August 30, 2005	:	
Application No. 10/040,863	:	ON PETITION
Filed: November 1, 2001	:	
Attorney Docket No. 20093A-002220US	:	

This is a decision on the petition filed October 28, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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ALEXANDRIA, VA 22313-1450
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CAMPBELL & FLORES LLP
4370 LA JOLLA VILLAGE DRIVE
7TH FLOOR
SAN DIEGO CA 92122

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APR 2 2 2004

OFFICE OF PETITIONS

Applicant: Zhou
Appl. No.: 10/040,895
International
Filing Date: December 28, 2001
Title: METHODS FOR PREDICTING FUNCTIONAL AND STRUCTURAL PROPERTIES OF POLYPEPTIDES USING SEQUENCE MODELS
Attorney Docket No.: 66692-043
Pub. No.: US 2003/0162219 A1
Pub. Date: August 28, 2003

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on November 3, 2003.

The request is DISMISSED.

The instant request is that the application be republished because a portion of page 35, pages 36-38, a portion of page 39 and portions of Table 6C are missing from the published application.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." **A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.**[1]

Applicant argues that the application should be republished because a portion of page 35, pages 36-38, a portion of page 39 and portions of Table 6C are missing from the published application.

After reviewing the application as filed and its publication it is clear the Office correctly published the application in accordance with 37 CFR 1.215(a). With respect to the asserted missing text, see paragraphs 73-81 of the published application. With respect to the asserted missing portions of Table 6C, see page 61 of the published application.

Applicant is reminded of her duty to conduct a reasonable inquiry before filing a paper before the

[1]Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Office. See MPEP 410. Considerable Office resources were spent reviewing the image version of the publication and the text version of the publication on the internal and external data bases with the application as filed to determine whether there was an Office error in the patent application publication based on applicant's assertions of the error.

Applicant's request for a corrected patent application publication on November 3, 2003, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), should be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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AUG 1 4 2008

In re Application of :
John F. Malitzis :
Application No. 10/040912 : ON PETITION
Filing or 371(c) Date: 01/07/2002 :
Attorney Docket Number: :
09857-086001 :

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed June 12, 2008.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is February 1, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed[1].

The petition fee and fee for filing the Notice of Appeal have been charged to Applicant's deposit account as authorized in the petition and Notice of Appeal.

The application is being referred to Technology Center Art Unit 3693 to await the brief in support of appeal.

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[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." 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.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COURTNEY STANIFORD & GREGORY LLP
10001 N. De Anza Blvd., Suite 300
Cupertino CA 95014

MAILED

JUN 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Dilip, et al. :
Application No. 10/040,929 : ON PETITION
Filed: December 31, 2001 :
Attorney Docket No. CSHE.P004 :
For: METHOD AND APPARATUS FOR MANAGING TRANSACTIONS

This is a decision on the petition, filed April 29, 2010, 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 timely submit a reply within three (3) months of the mailing of the October 28, 2009 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on January 29, 2010.

Applicants have submitted an amendment in reply to the October 28, 2009 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 28, 2009 non-final Office action, and the $1,620.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3693 for consideration of the amendment filed on April 29, 2010.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 21 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Christie Parker & Hale, LLP
350 West Colorado Boulevard
Suite 500
Pasadena, CA 91105

Paper No.

In re Application of	:	DECISION ON PETITION
Kristine B. Fuimaono et al	:	TO WITHDRAW
Serial No. : 10/040,932	:	HOLDING OF
Filed : December 31, 2001	:	ABANDONMENT
For : Catheter Having Multiple Spines Each Having Electrical Mapping and Location Sensing Capabilities	:	

This is a decision on a request filed February 23, 2004 to review the holding of abandonment mailed January 29, 2004, for failure to respond to the Office action mailed June 9, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, an Information Disclosure Statement, a copy of a one-month extension of time request, and a copy of a PTO stamped receipt dated October 14, 2003. The communication included a certificate of mailing dated October 9, 2003. It is noted that the original communication has been located and matched with the instant file. Any inconvenience is deeply regretted.

In view of the above, the Notice of Abandonment mailed January 29, 2004, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed October 14, 2003 as well as the Information Disclosure Statement filed December 23, 2003.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/04/14/04

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL Paper No. 6

JUL 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036

In re Application of
Stephen I. McTaggart
Application No. 10/040,947
Filed: January 9, 2002
For: PAPER PRINTED RADIO

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent(s)/attorney(s) of record received on May 20, 2004.

A grantable request to withdraw as attorney/agent of record must:

(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents of record are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to the Office's File Repository.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: Stephen McTaggart
Advancedconductive Materials Consulting Services
8793 Plata Lane, Suite E
Atascadero, CA 93422

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Alfred W. Zaher
Woodcock Washburn LLP
One Liberty Place-46th Floor
Philadelphia, PA 19103

COPY MAILED

JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Torghele et al.	:	DECISION ON APPLICATION
Application No. 10/040,950	:	FOR
Filed: January 7, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 946999.00002-4	:	
	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE" filed January 13, 2005. Applicants request that the initial determination of patent term adjustment be corrected from seventy-one (71) days to one hundred (100) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the notice of allowance is one hundred (100) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 14, 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 71 days. The instant application for patent term adjustment was timely filed with payment of the Issue Fee. Applicants dispute the number of days reduced for the filing of their response to the Notice to File Missing Parts of Application mailed February 19, 2002.

Applicants state that the patent issuing from this application is not subject to a terminal disclaimer.

Applicants' argument is well taken. A review of the application file confirms that applicants' response to the Notice to File Missing Parts of Application mailed February 19, 2002, is of record in the application with a date of receipt by the Office of July 23, 2002. This was outside of the three-month period under 37 CFR 1.704(b). However, the period of delay was sixty-five (65) days, not ninety-four (94) days.

In view thereof, the correct Patent Term Adjustment at the time of mailing of the notice of allowance is 100 days (210 - (65 + 45)).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of REVISED PAIR screen

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060807

DATE : August 7, 2006

TO SPE OF : ART UNIT 3767

SUBJECT : Request for Certificate of Correction on Patent No.: 6,913,594 / 10/040,981

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:

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

Kevin C. Sirmons

SPE: Kevin Sirmons **Art Unit** 3767

DO NOT SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-11-07

TO SPE OF : ART UNIT 3621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10040994 Patent No.: 6792032

Please respond to this request for a certificate of correction within 7 days.

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

V Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

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: _____

JAY K. PATEL
SUPERVISORY PATENT EXAMINER

_____ 3611
SPE Art Unit

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.
10040999	12/28/01	GOLDBERG ET AL.	I-2-0209US

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER	
Michael G. Lee	
ART UNIT	**PAPER**
2876	20070928

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Certificate of Correction filed on August 06, 2007 is acknowledged and has been approved by the examiner.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 21,2007

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/040,999 Patent No.: 6726092 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Certificate of Correction has been approved by the examiner, CofC corrects the figure w/ addition of "Prior Art" and further to correct any typographical error.

MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2876
Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 221313-1450
WWW.USPTO.GOV

Mailed: SEP 2 8 2004

DWW
Paper No.

In re Application of Reinking et al.
Serial No.: 10/041,002
Filed: December 28, 2001

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: PREPARATION OF POLYEHTYLENE

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed February 04, 2004 to correct inventorship under 37 CFR 1.48(a) by adding the names of Ramesh N. Shroff to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David W. Wu
Supervisory Patent Examiner
Art Unit 1713
Technology Center 1700

Shao-Hua Guo
LYONDELL CHEMICAL COMPANY
3801 West Chester Pkie
Newtown Square, PA 19073

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

BLAKELY SOKOLOFF TAYLOR & ZAFMAN/PDC
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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JUN 16 2003

OFFICE OF PETITIONS

In re Application of :
David Harriman :
Application No. 10/041,028 : ON PETITION
Filed: December 28, 2001 :
Attorney Docket No. 42390.P13765 :

This is a decision on the petition to revive under 37 CFR 1.137(f), filed May 20, 2003, which is being treated as a petition under 37 CFR 1.137(b).

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on December 28, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(i). On February 26, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on December 5, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

The petition fee of $1,300 has been refunded to Deposit Account No. 02-2666.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A corrected filing receipt indicating a projected publication date of July 3, 2003 accompanies this decision.

The application file is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: corrected filing receipt (2 pages)

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of
Konstant Volodarsky, et al.
Application No. 10/041,029
Filed: December 28, 2001
Attorney Docket No. ASMNUT.076DV1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 30, 2005.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before August 25, 2005. This decision precedes the mailing of a Notice of Abandonment was mailed on October 21, 2004. Receipt is acknowledged of the issue/publication fee on August 30, 2005.

This application is being referred to Technology Center AU 1742 for consideration of the amendment after allowance.

Thereafter, the application should be forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204.

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

TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Peter Gassner	: DECISION ON REQUEST FOR
Patent Number	: 7603657	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/041,034	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

INTELLECTUAL PROPERTY GROUP
PILLSBURY WINTHROP
1600 TYSONS BOULEVARD
MCLEAN, VA 22102

COPY MAILED

JUN 2 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Konstantin Volodarsky et al	:	DECISION GRANTING
Application No. 10/041,058	:	PETITION
Filed: December 28, 2001	:	
Attorney Docket No. 042496/0269291 NT-005(D)	:	

This is a decision on the paper styled "PETITION TO CORRECT FILING DATE" filed on May 29, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of December 28, 2001, rather than the presently accorded filing date of January 7, 2002.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on December 28, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provide, inter alia, a copy of the receipt for Express Mail label No. EL754037524US, showing a Date-In of December 28, 2001. The same Express Mail receipt number appears on the original transmittal letter submitted with the present application. Applicants request that the application be accorded a filing date of December 28, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 28, 2001.

The petition is granted. The $130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to September 28, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE
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JC106
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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 10

JUN 22 2004

KEATING & BENNETT LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

In re Application of:
TOKUDA *et al.*
Serial No.: 10/041,065
Filed: November 9, 2001
Attorney Docket No.: **36856.581**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

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 above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed December 4, 2003, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner in the next Office action.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund, or a credit to a Deposit Account.

Telephone inquires should be directed to Elvin Enad at (571) 272-1990.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

#15 DW

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 21 2004

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JUN 21 2004

OFFICE OF THE DIRECTOR
TC 3600

Visteon
C/O Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Application of :
Sunil Palakodati et al. :
Application No. 10/041,094 :
Filed: December 28, 2001 :
For: ELECTRIC POWER ASSIST STEERING SYSTEM WITH ROLLER GEARBOX

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 filed in the United States Patent and Trademark Office on April 9, 2004.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated June 27, 2003 and a Notice to that effect was mailed on February 10, 2004.

Petitioner states that a response was filed on September 27, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated September 27, 2003.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the *original* response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the *original* response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/vdb: 6/17/04

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OFFICE OF THE DIRECTOR
TC 3600

Visteon
C/O Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Application of
Sunil Palakodati et al.
Application No. 10/041,094
Filed: December 28, 2001
For: ELECTRIC POWER ASSIST STEERING SYSTEM WITH ROLLER GEARBOX

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 23, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on September 29, 2003 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 9/21/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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MAY 0 7 2004

OFFICE OF PETITIONS

In re Application of :
Butaric et al : DECISION ON PETITION
Application No. 10/041,124 : UNDER 37 CFR 1.78(a)(3)
Filed: January 8, 2002 :
Attorney Docket No. CRD-0903 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 6, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed applications.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on January 8, 2002, and was pending at the time of filing of the instant petition.

---

[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 reference to the prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2)(i) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2)(ii).

The instant petition does not comply with item (1).

In comparison with the Application Data Sheet and the Amendment submitted with the instant petition, the cross-reference to the related applications in the amendment reads different from the reference in the application data sheet. Also, page two(2) of the petition reads different from the above reference. Accordingly, it is not clear how petitioner intends for the reference to the related applications be amended to read.

For the above-noted reason, the petition under 37 CFR 1.78(a)(3) cannot be granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859 .

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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

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JUL 1 3 2004

OFFICE OF PETITIONS

In re Application of :
Frank Butaric et al :
Application No. 10/041,124 : DECISION ON PETITION
Filed: January 8, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CRD-0903 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 26, 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 October 6, 2003 and the Application Data Sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant pending application was filed on January 8, 2002, 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 Karen Creasy at (703) 305-8859.

The examiner of Technology Center Art Unit 3738 will consider applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Karen Creasy

Karen Creasy
hPetitions 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

HOGAN & HARTSON, L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES, CA 90067

COPY MAILED
DEC 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Kazuo Ishimoto, et al.	:	
Application No. 10/041,144	:	DECISION GRANTING PETITION
Filed: January 4, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 81784.0247	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 13, 2006 and the supplemental RCE filed December 21, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 6, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the information disclosure statement.

Karen Creasy for

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS TX 75374-1715

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
James D. KEELER et. al. :
Application No. 10/041,157 :
Filed: January 8, 2002 :
Attorney Docket No. PAVI-25,965 :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue and publication fees in a timely manner in reply to the Notice of Allowance mailed December 7, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 8, 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 and publication fees; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

The application file is being referred to the Office of Patent Publication.

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
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

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FEB 15 2005

OFFICE OF PETITIONS

In re Application of :
Joseph Fernand Deflander et al :
Application No. 10/041,167 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. CM2182 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue/publication fee in a timely manner in reply to the Notice of Allowance mailed March 16, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 17, 2004.

Pursuant to petitioner's authorization, Deposit Account No. 16-2480 was charged a total of $3,206.00 -- $1,500.00 for the petition to revive an unintentionally abandoned application, $1,400.00 for the issue fee, $300.00 for the publication fee and $6.00 for two (2) soft copies.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon
Petitions Examiner
Office of Petitions
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

Gerald R. Woods
IBM Corporation T81/503
P.O. Box 12195
Research Triangle Park, NC 27709

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Aggarwal et al.	:	DECISION
Application No. 10/041,182	:	ON PETITION
Filed : January 3, 2002	:	
For: CROSS-ENVIRONMENT	:	
CONTEXT-SENSITIVE HELP FILES	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 30, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 26, 2005. The Office action set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned October 27, 2005. A Notice of Abandonment was mailed March 27, 2006.

With the petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

This application is being returned to Technology Center 2179 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Cc: Steven M. Greenberg
200 East los Olas Blvd.
Suite 2040
Fort Lauderdale, FL 33301

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ALEXANDRIA, VA 22313-1450
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TIMOTHY W. MARKISON
VIXS, INC.
P.O.BOX 160727
AUSTIN, TX 78736

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of
Michael May, et al.
Application No. 10/041,230
Filed: January 7, 2002
Attorney Docket No. VIXS 035

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 16, 2006.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before December 9, 2005. A Notice of Abandonment was mailed on January 20, 2006. In response, on February 16, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,272	01/08/2002	Juha T. Rantala	SLC-003	2997

7590 03/12/2004

KUBOVCIK & KUBOVCIK
THE FARRAGUT BLDG. . STE. 710
900 17TH STREET N.W.
WASHINGTON, DC 20006

EXAMINER	
DAVIS, BRIAN J	

ART UNIT	PAPER NUMBER
1621	

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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KUBOVCIK & KUBOVCIK
THE FARRAGUT BLDG. . STE. 710
900 17TH STREET N.W.
WASHINGTON DC 20006

In re Application of
Juha T. Rantala et al
Serial No.: 10/041,272
Filed: January 8, 2002
Attorney Docket No.: SLC-003

: PETITION DECISION TO RESTART
: PERIOD FOR REPLY

This is in response to the petition under 37 CFR § 1.181, filed December 18, 2003, by facsimile, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on November 6, 2003, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office action until December 8, 2003, more than one month after the mail date thereof, and provide copies of the docketing receipt stamped first page of the Office action as evidence thereof. The apparent reason for delay in receipt was that the Office received, but failed to correlate with the application, a change of correspondence address filed June 30, 2003. Applicants resubmitted the original paper in October, 2003, prior to the mailing of the Office action, however the change was not effected until after the Office action was mailed. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed November 6, 2003, is hereby restarted as of applicants' date of receipt, December 8, 2003. The time period for reply remains as set therein.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

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KUBOVCIK & KUBOVCIK
THE FARRAGUT BLDG. . STE. 710
900 17TH STREET N.W.
WASHINGTON DC 20006

In re Application of
Juha T. Rantala et al
Serial No.: 10/041,272
Filed: January 8, 2002
Attorney Docket No.: SLC-003

PETITION DECISION TO RESTART PERIOD FOR REPLY

This is in response to the petition under 37 CFR § 1.181, filed December 18, 2003, by facsimile, requesting restarting of the period for reply.

A review of the file history shows the examiner mailed a non-final Office action to applicants on November 6, 2003, setting a three month shortened statutory period for reply. Applicants state that they did not receive the Office action until December 8, 2003, more than one month after the mail date thereof, and provide copies of the docketing receipt stamped first page of the Office action as evidence thereof. The apparent reason for delay in receipt was that the Office received, but failed to correlate with the application, a change of correspondence address filed June 30, 2003. Applicants resubmitted the original paper in October, 2003, prior to the mailing of the Office action, however the change was not effected until after the Office action was mailed. Applicants' statement and evidence are acceptable and the period for reply will be adjusted accordingly.

Applicants' petition is **GRANTED**.

The period for reply to the Office action mailed November 6, 2003, is hereby restarted as of applicants' date of receipt, December 8, 2003. The time period for reply remains as set therein.

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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 4

NANDU A. TALWALKAR
BUCKLEY, MASCHOFF, TALWALKAR & ALLISON LLC
5 ELM STREET
NEW CANAAN, CT 06840

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of :
Clifford A. Pickover et al. :
Application No. 10/041,277 : ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. YOR920010371US1 :

This is in response to your petition of March 5, 2002, in response to the Notice of Omitted Item(s) in a Nonprovisional Application, mailed February 8, 2002.

The instant application was filed with the USPTO on January 7, 2002. On February 8, 2002, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" stating that the application was filed without figure 7B.

In response, on March 5, 2002, the present petition was filed, accompanied by a copy of figure 7B as well as a petition fee of $130.00. Petitioners argue that Figure 7B was filed with the other application papers on January 7, 2002. In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of January 7, 2002, and the above-identified application number, identifies the application by inventors' attorney's docket number, and acknowledges receipt of, *inter alia*, 12 sheets of formal drawings. Petitioners request that the application, including Figure 7B, be allowed to maintain the filing date of January 7, 2002.

A review of the record reveals that no Figure 7B has been located among the application papers deposited on January 7, 2002. However, the evidence is convincing that the application papers deposited on January 7, 2002, included Figure 7B. Therefore, the application, including Figure 7B, which is page 8 of 12 sheets of drawings, is entitled to maintain the filing date of January 7, 2002.

In view of the above, the petition is granted. The petition fee is unnecessary and petitioner may request a refund of the $130.00 petition fee by writing to the Office of

Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The application will be processed and examined using the copy of Figure 7B supplied on January 7, 2002.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of January 7, 2002, using the application papers filed on that date and the copy of Figure 7B supplied on January 7, 2002.

Telephone inquires should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 06

Robert J. Hess
GIBBONS, DEL DEO, DOLAN, GRIFFINGER
& VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

MAILED

MAR - 5 2003

OFFICE OF DIRECTOR
GROUP

In re Application of :
TRAPPANI, *et al.* :
Application No. 10/041,284 :
Filed: January 08, 2002 :
Attorney Docket No.: ATI-3.2.033/4150 :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed October 07, 2002, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(I) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office 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 good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition satisfies the above-listed requirements for special status.

Accordingly, the petition is **granted**.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES 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

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK NJ 07102-5497

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SEP 0 6 2005

OFFICE OF PETITIONS

In re Application of :
James Trappani et al. :
Application No. 10/041,284 :
Filed: January 8, 2002 : DECISION ON PETITION UNDER
Attorney Docket No. ATI-3.2.033/4150 : 37 C.F.R. §1.181(a)
Title: PLASMA LAMP HEAD :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment for the above-identified application, filed on November 8, 2004.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees or publication fees[1]. Accordingly, the above-identified application became abandoned on July 22, 2004. A notice of abandonment was mailed on August 25, 2004.

With the petition, Petitioner has submitted the publication and issue fees, along with a copy of Petitioner's Docket Report, which establishes that the Notice of Allowance and Issue Fee Due was not received.

As such, the petition under 37 CFR §1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**. The Office of Patent Publication will be notified of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. The phone number for the Office of Patent Publication is (703) 308-6789.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 See MPEP §710.02(e).

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 3

STEVEN P. WIGMORE
KING & SPALDING
45TH FLOOR
191 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30303

MAIL

OCT 0 3 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
James O. Farmer, et al. :
Application No. 10/041,299 :
Filed: January 8, 2002 :
For: METHOD AND SYSTEM FOR PROVIDING A RETURN PATH FOR SIGNALS GEREATED BY LEGACY TERMINALS IN AN OPTICAL NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on September 4, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

Josephine Young is granted the request for withdraw of attorney/agent.
All future communications from the Office will continue to be be directed to the address listed above until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Becerra et al.
Application No. 10/041,301
Filed: January 8, 2002
Attorney Docket No.

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to file a proper reply to the final Office action mailed January 21, 2004. A two month extension of time was obtained. Accordingly, this application became abandoned on June 22, 2004.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition fee on July 28, 2004, was $1,330. Petitioner submitted $1,300 for the fee. Therefore, $30 was charged to petitioner's deposit account.

Technology Center 1745 will be informed the petition has been granted so that the RCE and accompanying papers can be entered and considered by the examiner.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/21/08 **Paper No.:** —

TO SPE OF : ART UNIT 2646

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/041,336 Patent No: 7023981 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: Correction of typographical error.

SPE 2615
SPE **Art Unit**

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WASHINGTON, D.C. 20231
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JAN 1 4 2003

Technology Center 2100

Paper No. 4

Head, Johnson & Kachigian
228 West 17th Place
Tulsa, Oklahoma 74119

In re Application of: J. Richard Bray)
Application No. 10/041,360)
Filed: January 7, 2002) **DECISION ON REQUEST FOR**
For: AUTOMATED LANGUAGE FOR TV) **WITHDRAWAL AS ATTORNEY**
RECEIVER)

This is a decision on the Request To Withdraw from Representation filed November 22, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Keisling & Pieper, PLC
Attn: Trent Keisling
Bank of America Plaza
One East Center Street, Suite 217
Fayetteville, Arkansas 72701

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ALEXANDRIA, VA 22313-1450
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07202004

Keith Rawlins
1475 Sawdust Road, # 9305
Spring, TX 77380

JUL 26 2004

In re Application of:
Keith Christopher Rawlins
Serial No.: 10/041,368
Filed: January 8, 2002
Title: TIMPANI BASE GUARD

DECISION ON PETITION

This is a decision on the petition, filed March 10, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of August 5, 2003. A Notice of Abandonment was mailed on February 10, 2004.

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a Express Mail by the US Postal Service receipt on which the US Patent and Trademark Office (USPTO) acknowledges receipt of s delivery on November 3, 2003. A copy of the "content" indicated as being submitted by Express Mail on November 3, 2003 accompanies the petition. The "content" is a response that includes a "certificate" of Express Mail dated November 3, 2003 on a separate page and a copy of the amended specification and claims.

The response was not of record at the time the Notice of Abandonment was mailed but has since been associated with the application file. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

Applicant is reminded that in order to be entitled to the date of deposit by Express Mail, any paper submitted by Express Mail must include the Express Mail mailing label number thereon as set forth under 37 CFR 1.10(b), last sentence. It is suggested that, for all future communications to the USPTO, the number of the Express Mail mailing label number be shown on the first page of each paper submitted via Express Mail by the US Postal Service.

The examiner will consider the response submitted November 3, 2003 and an Office action will be issued in due course.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No. None

Milliken & Company
P. O. Box 1927
Spartanburg SC 29304

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OFFICE OF PETITIONS

In re Application of :
Ramesh Keshavaraj et al. :
Application No. 10/041,376 :
Filed: January 8, 2002 : DECISION ON PETITION
Attorney Docket No. 5287 : UNDER 37 C.F.R. §1.181(A)
Title: AIRBAG MADE FROM LOW :
TENACITY YARNS :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on October 5, 2006.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 19, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on March 20, 2006. A notice of abandonment was mailed on August 24, 2006.

With the present petition, Petitioner has included a notice of appeal and a petition for a three-month extension of time, each of which contains a certificate of mailing dated June 19, 2006.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a response was timely submitted, pursuant to 37 C.F.R. §1.8.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision.

The three-month extension of time has been charged to Petitioner's Deposit Account. Petitioner will note that the two-month period for filing the appeal brief, as set forth by Rule §41.37(a)(1), began on June 19, 2006.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

March 8, 2005

Linda S. Evans
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

In re Application of:
Darrow, et al.
Serial No: 10/041,385 On Petition
Filing Date: January 8, 2002
For: **DNA ENCODING THE HUMAN SERINE PROTEASE EOS**

In response to the petitions received by fax on February 27, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 23, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned June 24, 2002. The notice of abandonment was mailed on February 5, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Nonprovisional Application Papers on May 9, 2002.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP
1100 Superior Avenue, Seventh Floor
Cleveland OH 44114-2518

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SEP 17 2002

OFFICE OF PETITIONS

In re Application of :
Gordon W. Calhoon
Application No.: 10/041,437 :
Filed: January 8, 2002 : DECISION ACCORDING
Attorney Docket No: PRA 2 0010 : STATUS UNDER
For: UNIVERSAL ELECTRONIC TAGGING : RULE 47(b)
FOR CREDIT/DEBIT TRANSACTIONS :

This is in response to the petition under 37 CFR 1.47(b), filed August 6, 2002 (certificate of mailing dated July 30, 2002.)

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

The above-identified application was filed on January 8, 2002, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed on February 1, 2002, requiring an executed oath or declaration, filing fee, a surcharge for the late filing of the oath or declaration. The Notice set forth a two month extendable period for reply. On August 6, 2002 (certificate of mailing dated July 30, 2002), petitioner filed the instant petition under 37 CFR 1.47(b) and obtained a four (4) month extension of time to file a reply.

By the instant petition, evidentiary documents demonstrating due diligence, and the assignment, petitioner has established that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FISH & RICHARDSON
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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SEP 19 2005

OFFICE OF PETITIONS

In re Application of :
Thien Ern Ooi :
Application No. 10/041,547 :
Filed: January 7, 2002 :
Attorney Docket No. 10559-646001/P12968 :

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 undersigned at (571)272-3208.

This matter is being referred to Publishing Division.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
FISH & RICHARDSON
225 FRANKLIN STREET
BOSTON, MA 02110-2804

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 4

BROWDY AND NEIMARK, P.L.L.C.
ATTORNEYS AT LAW
Suite 300
624 Ninth Street, N.W.
Washington, DC 20001-5197

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MAY 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Frederic Triebel :
Application No. 10/041,600 : DECISION ON PETITION
Filed: January 10, 2002 :
Attorney Docket No. TRIEBEL=2A :

This is a decision on the "Traversal of Notice of Omitted Items" filed April 15, 2002, requesting that the "Notice of Omitted Items" mailed February 13, 2002 be withdrawn.

Application papers in the above-identified application were filed on January 10, 2002. However, on February 13, 2002, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date; however, Page 7 of the specification appeared to have been omitted from the application.

In reply, applicant timely filed the instant petition. Applicant maintains that the application as filed on January 10, 2002 was complete. In support thereof, petitioner submitted a copy of their "postcard" receipt identifying this application by serial number and filing date, itemizing "☒Specification and Claims (25 pages" among the enclosures, bearing a USPTO receipt date-stamp of January 10, 2002, and lacking any notation of non-receipt of any item listed. A clean copy of page 7 of the specification was also provided.

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 January 10, 2002 included 25 pages of specification and claims. Moreover, a comparison of the papers presently accorded a filing date of January 10, 2002 and page 7 of the specification submitted on petition reveals that these papers together constitute the 25 pages of specification and claims itemized on the postcard receipt. Thus, applicant has shown that the application is entitled to a filing date of January 10, 2002, with page 7 of the specification 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 to applicant, as requested.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- reprocessing with a filing date of January 10, 2002, using the application papers received in the Office on that date

and page 7 of the specification resubmitted on petition filed April 15, 2002.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Robert Aarts	: DECISION ON REQUEST FOR
Patent Number	: 7610356	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/041,610	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/10/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2020** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 07-06

Paper No: __

DAVID W. HIGHET,
VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

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JUL 18 2006

OFFICE OF PETITIONS

In re Application of :
Siddiqi :
Application No. 10/041,667 : DECISION
Filing Date: 10 January, 2002 :
Attorney Docket No.: 10210-85 :

This is a decision on the petition filed on 5 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(b)[1] (as to unintentional delay) 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

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

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.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **DISMISSED**.

Petitioner was not of record at the time the instant application went abandoned, and, thus, is unable to make a statement as to unintentional delay.

To this end, former Counsel, the Applicant, or the Assignee (or representative thereof) are individuals who may be competent to attest in this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 1 July, 2003 (the full paper file is not available at this writing and the Image File Wrapper (IFW), does not contain all of the substantive papers in this regard, and so the PALM record is relied upon for this history), with reply due absent extension of time on or before 1 October, 2003;

- the instant application went abandoned after midnight 1 October, 2003;

- the Office mailed a Notice of Abandonment on 3 March, 2004;

- Petitioner filed the instant application (with fee), averred that the Office action in question was not available and, thus, Petitioner was unable to reply, and made the statement of unintentional delay–however, in light of:

  –the period of thirty-two (32) months from the date of abandonment and twenty-seven (27) months from Notice thereof before filing of the instant petition;

  –the indication that the attorney formerly Counsel herein no longer is available/of record; and

  –the instant Petitioner was not of record at the time of abandonment;

the Office will require additional information, statements, records, and evidence–explanation and examples of which Petitioner is directed to the Commentary at MPEP §711.03(c) for guidance.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

(The paper file has been ordered from Files Repository, and it is anticipated that a copy of the Office action in question may be available for enclosure by the time this decision is mailed.)

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[5] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6] And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

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

---

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[5] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[6] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Because Petitioner appears not to have been of record at the time the instant application went abandoned, Petitioner is not able to aver the unintentional nature of the abandonment.

To this end, Petitioner must provide a statement by an attorney of record and/or the assignee at the time the application went abandoned as to the unintentional nature of that event–and there will be a requirement as to docketing and other records such as might support the averments.

Therefore, it appears that Petitioner has not satisfied the "reply" and the "statement and showing" requirements under the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
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

[9] 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 .)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

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.
10/041,667	01/10/2002	Salman H. Siddiqi	10210-85	2947

7590 03/03/2004

Intellectual Property Docketing
PIPER MARBURY RUDNICK & WOLFE LLP
Suite 400
1775 Wiehle Avenue
Reston, VA 20190

EXAMINER	
SWARTZ, RODNEY P	

ART UNIT	PAPER NUMBER
1645	

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment	Application No.	Applicant(s)	
	10/041,667	SIDDIQI, SALMAN H.	
	Examiner	Art Unit	
	Rodney P. Swartz, Ph.D.	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *01 July 2003*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/041,667	01/10/2002	Salman H. Siddiqi	10210-85	2947

7590 07/01/2003

Intellectual Property Docketing
PIPER MARBURY RUDNICK & WOLFE LLP
Suite 400
1775 Wiehle Avenue
Reston, VA 20190

EXAMINER	
SWARTZ, RODNEY P	
ART UNIT	PAPER NUMBER
1645	9

DATE MAILED: 07/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/041,667	SIDDIQI, SALMAN H.	
	Examiner	Art Unit	
	Rodney P. Swartz, Ph.D.	1645	

-- 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 _____ .

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) 1-31 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) 1-31 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).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ 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.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

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) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

1. Claims 1-31 are pending and under consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are drawn to a method and kit for detecting secreted antigens in a sample without substantial replication of mycobacterial cells.

It is unclear what are the metes and bounds of the term "substantial replication". The specification teaches that "without substantial replication" is used to indicate that the subject cells have not been subjected to conditions conducive to "extensive replication" (page 27, lines 12-17). However, the specification does not define the metes and bounds of "extensive replication". Therefore, it is unclear how much replication constitutes "substantial replication".

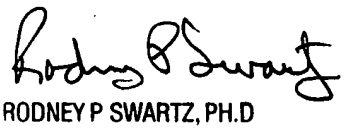
Conclusion

5. No claims are allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., whose telephone number is (703) 308-4244. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (703)308-3909. The facsimile telephone number for the Art Unit Group is (703)308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703)308-0196.



RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER
Art Unit 1645

June 30, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No.

In re Application of ADIR, Allon	:
	: DECISION GRANTING PETITION
Application No. 10/041,671	: TO REMAIL AN OFFICE
Filed: January 10, 2002	: COMMUNICATION AND RESTART
Attorney Docket No. ADIR=2	: PERIOD FOR REPLY

This is a decision on the petition filed on March 14, 2002, requesting that the Office communication mailed on February 13, 2002 be remailed and the shortened statutory period for reply set forth in the Office communication be restarted on the new mail date.

The petition is granted.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on March 12, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the Office communication in question will be remailed and the period for reply that was originally set forth in the Office communication will be restarted to run from the new mail date of the Office communication.

Kevin Little
Office of Initial Patent Examination
(703) 308-1863

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST
255 South Orange Avenue - Suite 1401
P.O. Box 3791
Orlando FL 32802-3791

COPY MAILED

MAR 12 2003

OFFICE OF PETITIONS

In re Application of
Barnes, et al.
Application No. 10/041,686
Filed: January 7, 2002
Attorney Docket No. 25001A

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed December 23, 2002, 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 Missing Parts in a Nonprovisional Application" (the "Notice") mailed December 22, 2002. The Notice set forth a two month period for reply beginning from its mailing date. Extensions of time for reply were available pursuant to 37 CFR § 1.136(a). No response was received within the allowable period. Accordingly, this application became abandoned on February 23, 2003. The instant petition was filed before a Notice of Abandonment could be sent.

The Notice required an oath or declaration in compliance with 37 CFR 1.63 to be filed, and a surcharge pursuant to 37 CFR 1.16(e) be remitted. Petitioner responded by filing a declaration that complies with 37 CFR 1.63 and remitting the required surcharge. Petitioner also filed substitute drawings as required by the Notice, and remitted outstanding filing and claim fees.

The application is being forward to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

OCT 14 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

Paper No 7

In re Application of
Masuda Hiroyuki et al.
Application No.10/041728
Filed: January 7, 2002
For: WEATHER STRIP AND MOUNTING STRUCTURE THEREOF

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

The papers filed March 28, 2003 and July 10, 2003 have been treated as a Petition to Withdrawal the Holding of Abandonment.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated _____

☐ USPTO return facsimile receipt dated_____.

☒ Certificate of Mailing/Transmission signed on September 3, 2002. and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the examiner for appropriate action.

en/10/9/03

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brown, Raysman, Millstein, Felder &
Steiner LLP
900 Third Avenue
New York, NY 10022

MAILED

NOV 05 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
Deborah A. Dixon (deceased) : **TO MAKE SPECIAL**
Application No. 10/041,752 : **(ACCELERATED**
Filed: January 7, 2002 : **EXAMINATION)**
For: SYSTEM AND METHOD FOR ASSET ACCUMULATION AND RISK MANAGEMENT

This is in response to the petition filed on June 26, 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 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).

Since all of the requirements for special status under MPEP § 708.02, VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 10/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Daniel Ahles	: DECISION ON REQUEST FOR
Patent Number	: 7668776	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/041,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1756** 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

FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Johannes THOMA, et al.
Application No. 10/041,772
Filed: January 8, 2002
For: SECURE EXTENSIBLE COMPUTING ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed May 11, 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**.

Because there was no request for a correspondence address change, all future communications from the U.S. Patent and Trademark Office (Office) ***will continue to be addressed*** to the above-mentioned address until further notice. Applicant is reminded of the obligation to provide the Office with any change of correspondence address to ensure receipt of all correspondence.

FOR

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 07 2010

OFFICE OF PETITIONS

James E. Bradley
Bracewell & Patterson, L.L.P.
P.O. Box 61389
Houston TX 77208-1389

In re Application of
Ellis
Application No. 10/041,804
Filed: January 8, 2002
For: THERMAL DECK

: DECISION ON PETITION

This decision is in response to the petition under 37 CFR 1.137(b), filed February 8, 2010.

The petition is **DISMISSED**.

The application became abandoned August 13, 2003 for failure to timely submit a proper reply to the non-final Office action mailed May 12, 2003. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was filed. Notice of Abandonment was mailed December 2, 2003.

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 fails to satisfy requirement (3).

As to item (3), there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

A petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional. Further, the Director may require additional information where there is a question whether the entire delay in question was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). In view of the inordinate delay (almost seven years) in resuming prosecution, there is a question whether the entire delay was unintentional.

The declaration of applicant is acknowledged. While applicant acknowledges the non-final Office action dated May 12, 2003, the inventor essentially asserts that he was unaware that the application was actually abandoned due to lack of reply to the non-final Office action.

As applicant was represented by counsel at the time of abandonment and continues to retain representation, further information concerning the abandonment of the application is required.

Any renewed petition must establish that the entire delay, from the time that a reply was due until the filing of a grantable petition, was unintentional. Petitioner may wish to identify the party having the right to reply to avoid abandonment who in turn may explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party can explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, if practitioner was counsel of record at the time of abandonment, practitioner should explain why this application became abandoned. Petitioner may wish to submit supporting documentation to establish that the entire delay has been unintentional as well as statements of fact from those having first hand knowledge of the facts and circumstances surrounding the delay at issue. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and
(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In view thereof, 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 37CFR 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) 272-3205.

/ALESIA M. BROWN/

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: David G. Way	: DECISION ON REQUEST FOR
Patent Number	: 7577366	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/041,853	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NOV 5 2004

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of	:
Susan A. Slaugenhaupt et al	:
Serial No.: 10/041,856	: PETITION DECISION
Filed: January 7, 2002	:
Attorney Docket No.: 1829-4004	:

This is in response to the petition under 37 CFR 1.59(b), filed June 18, 2004, to expunge Information from the above identified application.

Petitioner requests that the letter submitted with the petition on June 18, 2004, 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 information is described as a confidential communication to Dr. Gusella, one of the inventors of the above identified application, and relates to review of a proposed journal article (which has since been published) related to the subject matter of the application. The material contained within the letter has been determined to have no bearing on the determination of patentability of this application. In view of this determination by the examiner the letter is expunged from the application and returned to applicants.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036-4003

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APR 25 2008

In re Application	:	
Slaugenhaupt, et al.	:	
Application No. 10/041,856	:	DECISION ON APPLICATION
Filed: January 7, 2002	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 13572-105039US1	:	

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R § 1.705(b)", filed November 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 zero (0) days to five hundred one (501) 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.

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 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.

On November 14, 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 November 30, 2007,

Applicants timely[1] 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 zero (0) days based on an adjustment of four hundred sixty-eight (468) days of PTO delay 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 sixty-two (62), ninety-two (92), ninety-nine (99), ninety-two (92), and ninety-two (92) days pursuant to 37 C.F.R § 1.704(b), and forty-one (41) days pursuant to 37 C.F.R. 1.704(c)(8). All periods of adjustment have been reviewed and found to be correct.

However, applicants assert additional PTO delay 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]

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0)** (468 days of PTO delay, reduced by 478 days of applicant delay).

Receipt of the $200 fee is acknowledged.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[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).

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)
6,728,678	2004-04-27	10/041,867	2002-01-07	INT1P903C2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Lee Van Pelt/	Date (YYYY-MM-DD)	2008-06-05
Name	Lee Van Pelt	Registration Number	38352

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6728678
Issue Date: April 27,2004
Application No. 10041867
Filed: January 7,2002
Attorney Docket No. IR-006-C2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 5,2008 . 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

OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22102

COPY MAILED

DEC 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Gary Rasmussen, et al. :
Application No. 10/041,881 : DECISION ON PETITION
Filed: October 24, 2001 : TO WITHDRAW
Attorney Docket No. 577172003200 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 14, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office [.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "application is being transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed September 21, 2006 that requires a reply by 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: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCLEAN VA 22102

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of :
Gary Rasmussen, et al. :
Application No. 10/041,881 : DECISION ON PETITION
Filed: October 24, 2001 : TO WITHDRAW
Attorney Docket No. 577172003200 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 17, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that Adam Keser does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 1, 2007 that requires a response by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARC KAUFMAN, ESQ.
NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

GAMBRO, INC
PATENT DEPARTMENT
10810 W COLLINS AVE
LAKEWOOD CO 80215

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JUL 18 2002
OFFICE OF PETITIONS

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JUL 18 2002
OFFICE OF PETITIONS

CANCELED

In re Application of
Luehmann, et al.
Application No.: 10/041,898
Filed: January 7, 2002
Attorney Docket No.: S0002-US02
For: PURIFIED WATER SUPPLY SYSTEM FOR HIGH DEMAND DEVICES AND APPLICATIONS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed April 15, 2002 .

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 7, 2002 without an executed oath or declaration. Accordingly, on February 14, 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 April 15, 2002, a declaration executed by three of four joint inventors, the petition fee, and the instant petition were filed.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $130 as specified in 37 CFR § 1.17(h), and
(4) the last known address of the omitted inventor(s).

This petition lacks item (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 declaration contains noninitialed, nondated alteration to two of the inventor's addresses. It is unclear as to what their addresses and residences are. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a). An oath

or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Hannah is REQUIRED. See MPEP 409.03(a).

It is assumed that the address listed on the declaration for Mr. Hannah is his last known address. If this assumption is incorrect, petitioners are asked to inform the Office and provide Mr. Hannah's last known address.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By facsimile:	(703) 308-6916 Attn: Office of Petitions
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

GAMBRO, INC
PATENT DEPARTMENT
10810 W COLLINS AVE
LAKEWOOD CO 80215

COPY MAILED

OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of
Luehmann, et al.
Application No.: 10/041,898
Filed: January 7, 2002
Attorney Docket No.: S0002-US02
For: PURIFIED WATER SUPPLY SYSTEM FOR HIGH DEMAND DEVICES AND APPLICATIONS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed October 1, 2002.

The petition is granted.

Petitioners have shown that the non-signing inventor, Mr. Johnny W. Hannah, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition establishes that the inventor was mailed a complete copy of the application papers numerous times, but orally refused to sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Pursuant to petitioners' authorization, deposit account no. 03-2316 will be charged the $110.00 one month extension of time fee.

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JOHNNY W. HANNAH
6920 CROSSROADS LANE
TIMBERVILLE, VA 22853

COPY MAILED

OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of :
Luehmann, et al. :
Application No.: 10/041,898 : LETTER
Filed: January 7, 2002 :
Attorney Docket No.: S0002-US02 :
For: PURIFIED WATER SUPPLY SYSTEM FOR HIGH DEMAND DEVICES AND APPLICATIONS

Dear Mr. Hannah:

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.

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).

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTORNEY OF RECORD: GAMBRO, INC
PATENT DEPARTMENT
10810 W COLLINS AVE
LAKEWOOD CO 80215

OIPE JC108
MAR 21 2005
PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-04)
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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	10/041,906
Filing Date	October 18, 2001
First Named Inventor	Francois-Xavier Nuttall
Art Unit	3621
Examiner Name	James A. Reagan
Attorney Docket Number	46030.00030

APPROVED
MAY 25 2005

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

☒ all the attorneys/agents of record.

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all 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 has requested that this matter be transferred to them.***

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.

2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☒ Firm or Individual Name	Jim H. Salter				
Address	Macrovision Corporation 2830 De La Cruz Blvd.				
City	Santa Clara	State	CA	ZIP	95050
Country	USA				
Telephone	408-748-8600	Fax	408-743-8610		
Signature	David E Rogers				
Name	David E. Rogers	Registration No.	38,287		
Date	March 17, 2005	Telephone No.	602-528-4000		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 8

RUSSELL H. WALKER
WALKER MCKENZIE & WALKER, P.C.
SUITE 434
6363 POPLAR AVENUE
MEMPHIS, TN 38119-4896

COPY MAILED

OCT 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Barry J. Fiala et al :
Application No. 10/041,934 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. A0,031 :

This is in response to the petition under 37 CFR 1.47(a), filed August 26, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

As to item (1), rule 47 applicant must demonstrate with documented evidence that an inventor 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 joint inventor Mark B. Hodes was ever presented with a copy of the complete application papers for the instant nonprovisional application. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers. If

joint inventor Hodes was not presented with a copy of the application papers for the instant nonprovisional application, then Mr. Hodes could not attest that he has "reviewed and understands the application papers" and could not execute the declaration he was requested to sign. Did inventor Hodes receive a copy of the application papers? Unless petitioner can show that a copy of the application papers was presented to inventor Hodes, then petitioner will have to mail a copy of the complete application papers (specification, claims and drawings) to inventor Hodes' 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. **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).

The statements of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. If the inventor orally refuses to join in the application, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. If, on the other hand, petitioner receives an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 petitioner that an omitted inventor'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 gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

In order to expedite consideration of the petition under 37 CFR 1.47(a), petitioner may wish to submit the renewed petition by facsimile transmission to the telephone number indicated below and to the attention of Irvin Dingle.

Further correspondence with respect to this matter should be addressed as follows:

By mail: U.S. Patent and Trademark Office
P.O. Box 2327
Mail Stop DAC
Arlington, VA 22202

Or

Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to Irvin Dingle at (703) 306-5684.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 11

RUSSELL H. WALKER
WALKER MCKENZIE & WALKER, P.C.
SUITE 434
6363 POPLAR AVENUE
MEMPHIS, TN 38119-4896

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of :
Barry J. Fiala et al :
Application No. 10/041,934 : DECISION GRANTING
Filed: January 8, 2002 :STATUS UNDER 37 CFR 1.47(a)
For: POINT-OF-SALE ACTIVATION AND :
SUBSEQUENT REGISTRATION OF :
PRODUCTS

This is in response to the petition filed April 11, 2003, requesting reconsideration of a decision mailed October 4, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to Technology Center 3600.

Frances Hicks

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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

MARK B. HODES
7009 ROSE TRAIL DRIVE
MEMPHIS, TN 38135

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Barry J. Fiala; Mark B. Hodes
Application No. 10/041,934
Filed: January 8, 2002
For: POINT-OF-SALE ACTIVATION AND SUBSEQUENT REGISTRATION OF PRODUCTS

Dear Mr. Hodes:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (703) 306-5684. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Russell H. Walker
Walker, McKenzie, & Walker, P.C.
Suite 434
6363 Poplar Avenue
Memphis, TN 38119-4896

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

April 7, 2005

John M. Haurykiewicz
Faegre & Benson
2200 Wells Fargo Center
90 South Seventh St.
Minneapolis, MN 55402-3901

In re Application of:
Randolph Edward Fossum
Serial No: 10/041,945 On Petition
Filing Date: January 7, 2002
For: **BASE PLATE WITH TAPERED INSIDE DIAMETER**

In response to the petitions received on December 1, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed February 7, 2002. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned April 9, 2002. The notice of abandonment was mailed on January 16, 2004.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Part of Nonprovisional Application on March 15, 2002.

The application was abandoned in error. The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Peterson et al. : DECISION ON PETITION
Application No. 10/041,948 :
Filed: January 7, 2002 :
Attorney Docket No. 10559-647001 / P12969 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 13, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on April 21, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on July 22, 2005. A Notice of Abandonment was mailed on December 13, 2005.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted.**

This matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

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DEC 23 2009

OFFICE OF PETITIONS

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re Application of :
Burbank et al. :
Application No. 10/041,949 :
Patent No.: 6,979,309 : DECISION ON PETITION
Filed: January 7, 2002 : PURSUANT TO
Issued: December 27, 2005 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: T4342-14198US32 :
Title: SYSTEMS AND METHODS FOR PERFORMING BLOOD PROCESSING AND/OR FLUID EXCHANGE PROCEDURES :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on November 3, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, the small entity fee that was

actually paid, the deficiency owed amount, and the total deficiency payment owed.

Petitioner has failed to identify when the small entity fee was actually paid, however that requirement is hereby waived, *sua sponte*.

The deficiency payment will be deducted from Deposit Account number 50-1165 in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FULWIDER PATTON LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES, CA 90045

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Levy et al.	:	
Application No. 10/041,950	:	DECISION ON
Filed: October 19, 2001	:	PETITION
Attorney Docket No. HEMAC:58774	:	

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed November 1, 2004.

The above-identified application became abandoned for failure to timely pay the required issue fee (and publication fee)[1] within the statutory period of three (3) months from the mailing date, June 29, 2004, of the "Notice of Allowance and Issue Fee Due." No extensions of time are permitted for transmitting issue fees. Accordingly, the above-identified application became abandoned on September 30, 2004. A Notice of Abandonment was mailed on November 2, 2004.

Petitioner contends that a response, including a check in the amount of $1660, with certificate of mailing under 37 CFR § 1.8 signed by James W. Paul thereon was mailed to the Office on August 25, 2004. On October 25, 2004, applicant became aware that the check had not been cashed and filed the instant petition along with another payment of the fees due at the rate in effect on November 1, 2004.

The petition did not include a copy of the PTOL-85B or a statement from Mr. Paul. **See** 37 CFR 1.8(b). Nonetheless, a review of the record reveals that the Issue Fee transmittal stamped with a date of receipt by the Office of (Monday) August 30, 2004 is present in the application file. Moreover, finance

[1] The Office did not set a concurrent but distinct requirement for drawings.

records indicate that the check accompanied the PTOL-85B[2]. In addition, the PTOL-85B included an authorization to charge any required fees to petitioner's Deposit Account and finance records show that the Deposit Account had more than sufficient funds to pay the required fees.

In view thereof, the petition pursuant to 37 CFR § 1.181 (no fee) is **GRANTED**, and the holding of abandonment is **withdrawn**.

Consideration of the petition under § 1.137(a) was not necessary. Accordingly, the petition fee of $110 is being refunded to petitioner's Deposit Account, as authorized.

The Office of Patent Publication has been advised of this decision. The application is thereby forwarded to Publication for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[2]. As reflected in the Office letter to applicant mailed November 24, 2004, the Office subsequently presented the check to the bank. It was returned due to a stop payment order. The record is not clear as to when the check was presented or when the stop order was entered. However, petitioner did pay the $50 processing fee.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWIN H. CRABTREE
SUITE 57 S
3773 CHEWY CREEK N. DRIVE
DENVER CO 80209

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APR 19 2007

OFFICE OF PETITIONS

In re Application of
Stephen M. Bisque et al.
Application No. 10/041,971
Filed: January 2, 2002
Attorney Docket No. **BISQUE-APP**

: 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 February 5, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

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)(5)(i). In this regard, the amended specification reads ".....is based on an earlier filed provisional patent application, serial number 60/264,302, filed on January 29, 2001....."

A proper reference is, ".....claims the benefit of provisional patent application ....."

Before the petition under 37 CFR § 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 1.78(a)(5)(i)) to correct the above matters is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Charles Pearson
Director,
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWIN H. CRABTREE
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3773 CHEWY CREEK N. DRIVE
DENVER CO 80209

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of
Stephen M. Bisque et al.
Application No. 10/041,971
Filed: January 2, 2002
Attorney Docket No. **BISQUE-APP**

: 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 April 24, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. ***§119(e)*** is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date 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. §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 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2179 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 06

MAR 4 2003

Hung Chang Lin
8 Schindler Ct.
Silver Spring, MD 20903

In re Application of:	:	
Derrick John Page	:	
Application No. 10/041,986	:	DECISION ON PETITION
Filed: January 09, 2002	:	TO MAKE SPECIAL
Attorney Docket No.: Page-5	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 08, 2002, and supplemented, via facsimile transmission, on February 25, 2002, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of Derrick John Page's Maryland drivers license as a showing that one of the applicants is sixty five (65) years of age or more.

Accordingly, the petition is granted.

The application is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
INTERNAL ZIP 4054
11400 BURNET ROAD
AUSTIN TX 78758

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FEB 26 2004

OFFICE OF PETITIONS

In re Application of :
Cooper, et al. :
Application No. 10/042,007 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. AUS920010030US1 :

This is a decision on the petition to revive an unavoidably abandoned application under 37 CFR 1.137(a), filed February 12, 2004 (Certificate of Mailing dated February 12, 2004).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers, mailed April 5, 2002. This Notice set a shortened statutory period for reply of two months for applicant to submit substitute drawings in compliance with 37 CFR 1.84. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on June 6, 2002. A Notice of Abandonment was mailed on January 26, 2004.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive a Notice to File Corrected Application Papers. However, petitioner has not met the showing required to establish nonreceipt of an Office action. To establish nonreceipt of an Office action, a practitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

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[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

[5] Id.

Alternative Venue:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries related to 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
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Paper No. 8

INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
INTERNAL ZIP 4054
11400 BURNET ROAD
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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Cooper, et al. :
Application No. 10/042,007 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. AUS920010030US1 :

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed April 15, 2004.

The renewed petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Corrected Application Papers, mailed April 5, 2002. This Notice set a shortened statutory period for reply of two months for applicants to submit substitute drawings in compliance with 37 CFR 1.84. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on June 6, 2002. A Notice of Abandonment was mailed on January 26, 2004. Applicants filed a petition to revive under 37 CFR 1.137(a) on February 12, 2004. However, because applicants failed to submit a proper document report evidencing non-receipt of the Notice to File Corrected Application Papers, the petition was dismissed in a decision mailed on February 26, 2004.

Petition Under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

On renewed petition, petitioner has submitted a satisfactory docket report indicating that the Notice to File Corrected Application Papers was not received.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

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[1] 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).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The application is being forwarded to the Office of Initial Patent Examination for pre-examination processing, using the drawings filed on February 12, 2004.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Patricia Faison Ball
for

Charles Pearson
Director
Office of Petitions

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of
Michael Richard Cooper et al.
Application No. 10/042,007
Filed: January 8, 2002
Attorney Docket Number: AUS920010030US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a),[1] to revive the above-identified application, filed February 2, 2006.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on September 18, 2005 for failure to timely file a response to the Final Office Action mailed June 17, 2006. A three month period for reply was set by statute and since no response or extensions of time were filed, a Notice of Abandonment was mailed July 18, 2006, although after the filing of the instant petition.

Petitioner asserts unavoidable delay in filing a response to the Final Office Action and argues that a reliance upon the Examiner to enter an "Examiner's Amendment" caused the delay.

Petitioner's arguments have been considered but are not persuasive.

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[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 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(c)).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] 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]

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).[4] 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.[5]

It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete and proper reply. The fact that the examiner may or may not have entered an amendment in an application prior to the end of the period for reply does not relieve applicant of the responsibility to submit a complete and proper reply prior to the end of the statutory period for reply in order to avoid

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[2]35 U.S.C. § 133.

[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]See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

abandonment. Petitioner's failure to take any action in furtherance of the required reply by the due date is the cause of the delay which if Petitioner had been diligent in ensuring that the amendment was entered could have avoided the abandonment. Rather, the failure to act represents a showing of a lack of diligence on the part of the petitioner.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable"delay.[6] 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: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[7]

In summary, the showing of record is that rather than unavoidable delay, the delay in filing a response to the Final Office Action was due to a lack of diligence on the part of petitioner in prosecution of the application. As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[8], which now provides that where the delay in reply was unintentional, a petition may be filed to

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[6]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).

[7]See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[8]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)).

revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Michael Richard Cooper et al.
Application No. 10/042,007
Filed: January 8, 2002
Attorney Docket Number: AUS920010030US1

ON PETITION

This is a decision on the petition, filed November 17, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 18, 2005 for failure to timely file a response to the Final Office Action mailed June 17, 2006. A three month period for reply was set by statute and since no response or extensions of time were filed, a Notice of Abandonment was mailed July 18, 2006. Prior to the mailing of the Notice of Abandonment, a petition under 37 CFR 1.137(a) was filed February 2, 2006. The petition was dismissed in a decision mailed September 25, 2006 because petitioner had not established unavoidable delay.

Comes now petitioner with the instant petition under the unintentional standard and asks that the after final amendment filed February 2, 2006 be entered.

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[1]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 be 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(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The examiner has reviewed the amendment and has determined that the amendment filed February 2, 2006 is acceptable.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to Technology Center 2851.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,032	10/25/2001	Hiroyuki Okahira	980615CD/LH	5742

1933 7590 01/20/2010

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
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NEW YORK, NY 10001-7708

EXAMINER	
NGUYEN, TU T	

ART UNIT	PAPER NUMBER
2877	

MAIL DATE	DELIVERY MODE
01/20/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Paper No. 20100114

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

In re Application of: ::
Okahira ET AL. ::
Serial No.: 10/042,032 :
Patent No.: 6,707,546
Filed: October 25, 2001
Attorney Docket No.: 980615CD/LH

PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.324

This is a decision on the petition filed October 22, 2004 to correct inventorship under 37 CFR 1.324.

The petition is GRANTED.

In view of the papers filed October 22, 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 1.324. The inventorship of this application has been changed by deleting the names:

Nubuo FUJISAKI

The inventorship is now

Hiroyuki OKAHIRA
Yuzo NAKAMURA
Terumasa MORITA

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Gregory J. Toatley, Jr.
Supervisory Patent Examiner,
Art Unit 2877

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United States Patent and Trademark Office
P.O. Box 1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
ADAMS et al. :
Application No. 10/042,039 : DECISION ON PETITION
Filed: October 25, 2001 : TO WITHDRAW
Attorney Docket No. 10692V-000521US : 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 19, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph R. Snyder and those practitioners associated with Customer Number 20350 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: STEPHEN J. SCRIBNER
PARTEQ INNOVATIONS
ROOM 1625, BIOSCIENCES COMPLEX
QUEEN'S UNIVERSITY
KINGSTON, ON K7L 3N6
CANADA

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APR 25 2006
OFFICE OF PETITIONS

In re Application of
ADAMS et al.
Application No. 10/042,039
Filed: October 25, 2001
Attorney Docket No. 10692V-000521US

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 September 19, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph R. Snyder and those practitioners associated with Customer Number 20350 has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4787.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: STEPHEN J. SCRIBNER
PARTEQ INNOVATIONS
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QUEEN'S UNIVERSITY
KINGSTON, ON K7L 3N6
CANADA

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KINGSTON ON K7L 3N6 CA CANADA

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OFFICE OF PETITIONS

In re Application of :
ADAMS et al. :
Application No. 10/042,039 :
Filed: October 25, 2001 :
Attorney Docket No. 10692V-000521US :

DECISION
ON PETITION

This is a decision on the petition filed January 20, 2004 under 37 CFR 1.181(no fee) to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED as moot.**

The petition was filed in response to the Notice of Abandonment (Notice) mailed December 12, 2003. As stated in the Withdrawal of Previously Sent Notice mailed on March 18, 2005, the Notice mailed December 12, 2003 was sent in error and has been withdrawn.

At present, please note that the above-identified application is abandoned. If petitioner believes this holding is in error, a petition to withdraw the holding of abandonment under 37 CFR 1.181 or a petition to revive under 37 CFR 1.137 should be filed in accordance with MPEP 711.03(c). Please note that the response submitted May 31, 2002 to the Notice to File Missing Parts of Nonprovisional Application mailed February 12, 2002 included a one-month extension of time fee ($55). A two-month extension of time fee ($200) was due. Therefore, in addition to responding or showing evidence of a response to the non-final Office action mailed June 22, 2005, any response should include the difference ($145) between the required second-month extension of time fee due and the first-month extension of time fee paid.

While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Office apologizes for the delay in responding to this petition.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Ronald W. Bassett et al :
Application No. 10/042,046 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. AIS920010552US1 :

This is a decision on the petition, filed October 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 22, 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 2617 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Paper No. _____

Date : October 19, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Ronald W. Bassett et al
Application No. :10/042,046
Filed :January 8, 2002

The above-identified application has been assigned Patent No. 7,133,671 and an issue date of November 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 November 7, 2006:

"All reference to Patent No. 7,133,671 to Ronald W. Bassett et al of Texas for METHOD, SYSTEM, AND PROGRAM FOR PROVIDING INFORMATION ON USERS OF WIRELESS DEVICES IN A DATABASE TO A PERSONAL INFORMATION MANAGER appearing in the Official Gazette of November 7, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,049	01/08/2002	Michael Wayne Brown	AUS920000718US1	4476

7590 03/06/2009

KONRAD RAYNES & VICTOR, LLP.
ATTN: IBM72
315 S. BEVERLY DRIVE
SUITE 210
BEVERLY HILLS, CA 90212

EXAMINER	
CHEA, PHILIP J	
ART UNIT	**PAPER NUMBER**
2453	
NOTIFICATION DATE	**DELIVERY MODE**
03/06/2009	ELECTRONIC

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.

4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

APR 29 2003
C37
PATENT & TRADEMARK OFFICE

William W Jones
[illegible] Juniper Lane
Madison CT [illegible]443

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OFFICE OF PETITIONS

In re Application of:
Lesieur et al
Filed: February 24, 2000
Application No.: 09/512,035
Attorney Docket No.: C-2407
For: METHOD FOR DESULFURIZING GASOLINE OR DIESEL FUEL FOR USE IN AN INTERNAL COMBUSTION ENGINE

DECISION GRANTING REQUEST FOR REFUND

This is a decision on the request for refund filed May 9, 2002, requesting that the continued prosecution application (CPA) fee and independent claim fees of $[illegible] be filed on January [illegible], 2002 and applied to application No. 09/512,035 be refunded.

Section [illegible].02 of the Manual of Patent Examining Procedure, Eighth Edition, August 2001 reads in part as follows:

> Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund (1) a fee paid by mistake (e.g., fee paid when no fee is required), or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment). When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d). 37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party decides to abandon the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee.

A review of application no. 09/512,035 reveals that no CPA has been filed.

Since applicant did not file a CPA on January 15, 2002, applicant is entitled to a refund of the $[illegible] CPA filing fee and the $252.00 excess claim fees.

As [illegible] the request is granted.

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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

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OFFICE OF PETITIONS

In re Application of :
Manfred Baldauf et al :
Application No. 10/042,057 : DECISION ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. GR99P8088 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 21, 2005. A Notice of Abandonment was mailed on November 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $790 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of May 20, 2005 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1746 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received August 21, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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FEB - 6 2004

MORGAN LEWIS & BOCKIUS, LLP
1701 MARKET STREET
PHILADELPHIA, PA 19103-2921

In re Application of	:
Gerd Gellisen et al	:
Serial No.: 10/042,059	: PETITION DECISION
Filed: October 25, 2001	:
Attorney Docket No.: 029474-5007	:

This is in response to the petition under 37 CFR 1.181, filed August 1, 2003, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on November 6, 2002, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on July 3, 2003. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.

John Doll
Director, Technology Center 1600

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OFFICE OF PETITIONS

Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, Illinois 60610

In re Application of
Wauke
Application No. 10/042,068
Filed: January 8, 2002
Attorney Docket NO. 9281-4240

: DECISION HOLDING PTA REQUEST
:IN ABEYANCE UNTIL AFTER ISSUE
:DATE

This decision is in response to applicants' PETITION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT timely[1] filed on June 16, 2005 requesting that the Office adjust the PTA at the time of the mailing of the notice of allowance to at least 836 days.

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).

However, in addition, the Office notes that the USPTO failed to reduce for an omission pursuant to 37 CFR 1.704(c)(7). **Accordingly, the correct amount of PTA at the time of the mailing of the notice of allowance is ZERO (0) days rather than the assigned amount of four (4) days.**

Applicants agree with the reductions and addition as it relates to 37 CFR 1.702(a)(1) (24 days) and 37 CFR 1.704(b) (20 days). Applicants assert that they are entitled to at least 566 days under 37 CFR 1.703(b).

Patentees arguments are persuasive to the extent herein asserted. The Office agrees that the application will not issue within three years of either the submission of an RCE or the issuance of the patent. Accordingly, applicants will receive additional PTA for the USPTO's failure to comply with 37 CFR 1.702(b), 1.703(b). However, see infra as to when such PTA will be added to applicant's PTA total at the time of the mailing of the notice of allowance. In addition, the USPTO notes that applicants did not receive a reduction for the improper RCE submission on March 22, 2004. The Office notes that the RCE correction was submitted on April 16, 2004. Accordingly, the reduction pursuant to 37 CFR 1.704(c)(7) should have been for a period of 25

[1]Issue fee paid on October 18, 2006.

days.[2] Accordingly, at the time of the notice of allowance the amount of USPTO delay is 24 days and the amount of applicant delay is 25 days.

As for the request under 37 CFR 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. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (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).

After the mailing of this decision, this application will be forwarded to the Office of patent publications for a prompt issuance of the patent. The Office apologizes for any delays in this decision and notes that any delays in issuing the application within four months of the payment of the issue fee and all other requirements being satisfied will be added to the determination that is mailed with the issue notification letter.

The Office has assessed the $200.00 fee required of this request. No additional fees are required in considering this matter.

Any questions should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

---

[2]The reduction begaon on the day after the initial reply (3/23/04) and ended on April 16, 2004 the date of the submission of the paper correction the error.

Day : Thursday
Date: 1/25/2007

PALM INTRANET

Time: 10:12:56

PTA Calculations for Application: 10/042068			
Application Filing Date:	01/08/2002	PTO Delay (PTO):	24
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	20
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-25		

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69	07/14/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	07/14/2006	CASE DOCKETED TO EXAMINER IN GAU			
67	07/14/2006	NOTICE OF ALLOWABILITY			
66	06/14/2006	DATE FORWARDED TO EXAMINER			
65	06/02/2006	RESPONSE AFTER EX PARTE QUAYLE ACTION			
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61	01/20/2006	RESPONSE AFTER NON-FINAL ACTION		1	57
60	10/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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55	08/10/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
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53	08/01/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)		12	45
52	08/08/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
51	08/01/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			

50	08/01/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
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46	06/23/2005	AMENDMENT AFTER FINAL REJECTION			
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37	11/18/2004	WORKFLOW INCOMING AMENDMENT IFW			
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35	09/13/2004	FINAL REJECTION			
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33	08/16/2004	RESPONSE AFTER NON-FINAL ACTION			
32	08/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
31	06/07/2004	MAIL NON-FINAL REJECTION			
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29	04/22/2004	DATE FORWARDED TO EXAMINER			
28	04/16/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)			
27	04/22/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
26	04/16/2004	WORKFLOW INCOMING AMENDMENT IFW			
25	03/29/2004	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
24	03/29/2004	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
23	03/29/2004	DATE FORWARDED TO EXAMINER			
22	03/22/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		5	18
21	03/29/2004	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
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19	03/22/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
18	12/17/2003	MAIL FINAL REJECTION (PTOL - 326)			

17	12/08/2003	FINAL REJECTION			
16	11/04/2003	DATE FORWARDED TO EXAMINER			
15	10/03/2003	RESPONSE AFTER NON-FINAL ACTION			
14	07/07/2003	MAIL NON-FINAL REJECTION			
13	07/02/2003	NON-FINAL REJECTION			
12	05/16/2003	DATE FORWARDED TO EXAMINER			
11	05/06/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
10	04/01/2003	MAIL RESTRICTION REQUIREMENT	24		-1
9	03/31/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
8	07/31/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	01/08/2002	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
5	01/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
4	02/15/2002	APPLICATION DISPATCHED FROM OIPE			
3	02/13/2002	APPLICATION IS NOW COMPLETE			
2	01/25/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/08/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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In re Application of	:	
Brown et al.	:	
Application No. 10/042077	:	DECISION ON PETITION
Filed: 01/08/2002	:	
Attorney Docket No.	:	
AUS920010687US1	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT OFFICE ACTION NOT RECEIVED," filed on 16 October, 2006.

The petition is **GRANTED**.

On 24 March, 2006, the Office mailed a non-final Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 25 June, 2006. The filing of the present petition precedes the mailing of Notice of Abandonment.

In the petition, applicants asserted that the practitioner did not receive the non-final Office action. Specifically, the practitioner asserts that the Office action was returned to the USPTO as undeliverable.

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 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 final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the 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 has submitted a statement by registered practitioner Duke W. Yee 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 petitioner's docket record is supplied with the petition.

A review of the record indicates that the USPTO mailed the non-final Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on 4 April, 2006. For this reason, the practitioner did not receive the non-final Office action of 24 March, 2006.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 2600 technical support staff for remailing of the non-final Office action mailed on 24 March, 2006. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BROOKS KUSHMAN P.C. /Oracle America/ SUN / STK
1000 TOWN CENTER, TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075-1238

Mail Date: 04/21/2010

Applicant	: Lyle N. Scheer	: DECISION ON REQUEST FOR
Patent Number	: 7580991	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/042,092	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **872** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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March 2, 2004

Michael D. Steffensmeier
Cardinal Health, Inc.
7000 Cardinal Place
Dublin, OH 43017

In re application of:
Broadfield et al DECISION ON PETITION
Serial No.: 10/042,106
Filed: January 7, 2002
For: SYSTEM AND APPARATUS FOR THE STORAGE AND DISPENSING OF ITEMS

This is a decision on the petition received on October 3,2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed February 21, 2002. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 24, 2002. The notice of abandonment was mailed on June 9, 2003.

On October 3, 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 February 21, 2002.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed February 21, 2002.

The petition is hereby Granted.

The application will be completed with the documents received October 3, 2003 and released to Technology Center 3651.

The over payment petition fee of $260 will be credited to Deposit Account 50-0256.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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JUN 12 2008

OFFICE OF PETITIONS

In re Application of :
Margaret Gardner Macphail :
Application No.10/042,107 : ON PETITION
Filed: January 8, 2002 :
Attorney Docket No. AUS920010596US1 :
:

This is a decision on the petition under 37 CFR §1.137(b), filed May 14, 2008.

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed December 14, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed. A Notice of abandonment was mailed on January 15, 2007.

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 amended appeal brief ; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notification of Non-Compliance is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 2161 for processing of the amended appeal brief for appropriate action by the Examiner in the normal course of business.

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

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Paper No.

INTERNATIONAL BUSINESS
MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

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NOV 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Kumhyr et al.	:	DECISION ON
Application No. 10/042,108	:	PETITION
Filed: January 8, 2002	:	
Atty Docket No.AUS920010719US1	:	
	:	

This is a decision on the PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION filed October 5, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, December 5, 2005, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on March 6, 2006. A courtesy Notice of Abandonment was mailed on May 11, 2006.

The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

The Office of Patent Publication has been advised of this decision.

[1] There was no distinct but concurrent requirement for new drawings.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 8

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 91614

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Zha, et al.
Application No. 10/042,128
Filed: January 7, 2002
Attorney Docket No. USFMCR.066C3

DECISION DISMISSING PETITION

This is a decision on the petition filed April 8, 2002, requesting entry of Figure 16 as part of the disclosure.

The application was filed on January 7, 2002. However, on February 4, 2002, the Office mailed a "Notice to File Missing Parts" (Notice), stating that the application had been accorded a filing date of January 7, 2002, and requiring the submission of the statutory basic filing fee, additional claim fees, and a surcharge for the late filing fee. Additionally, the Notice advised applicants that the drawing of Figure 16 described in the specification appeared to have been omitted.

In response, on April 8, 2002, applicants filed, inter alia, the present petition, an authorization to charge the $130.00 petition fee, and a copy of Figure 16. Applicants admit that they inadvertently omitted Figure 16 on filing the application papers. Applicants request entry of Figure 16 because is does not contain new matter.

It is noted that the application transmittal letter identified this application as a continuation application of prior application No. 09/336,059, filed June 18, 1999, and specifically incorporated by reference the disclosure of the prior application. Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figure 16 is not new matter if it was a part of the disclosure of the prior application.

However, as applicants admit, Figure 16 was not present on the filing of the above-identified application. Accordingly, the Notice mailed on February 4, 2002, was correct in stating that Figure 16 described in the specification had been omitted. Therefore, the requirement for the omitted figure was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

The $130.00 petition fee was charged to Deposit Account No. 11-1410, as authorized in the petition.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 7, 2002, using the application papers filed on that date.

Thereafter, the application will be forwarded to Technology Center 1700 for consideration by the examiner of the petition filed April 8, 2002, as an amendment requesting the entry of a new sheet of drawing.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OCT 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JOSEPH P. CURTIN
1469 N.W. MORGAN LANE
PORTLAND, OR 97229

In re application of:
Kurt Rubin, et al.
Application No. 10/042,132
Filed: January 11, 2002
For: PATTERNED MEDIA OFFSET TRACKS

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 August 06, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents of record 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: IMB Research Division
Almaden Research Center
650 Harry Road
San Jose, CA 95120-6099

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,142	01/11/2002	Wei Lin	03493.00296	5828

26652 7590 12/27/2007

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

EXAMINER	
BATURAY, ALICIA	

ART UNIT	PAPER NUMBER
2155	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 27 2007

TECHNOLOGY CENTER 2100

Michael Haynes
AT & T CORP.
ROOM 2A207
One AT&T Way
Bedminster, NJ 07921

In re Application of:
Wei LIN
Appl. No.: 10/042,142
Filed: January 11, 2002
For: ENHANCED CHANNEL ACCESS MECHANISMS FOR AN HPNA NETWORK

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petitions for suspension of prosecution under 37 CFR § 1.103(a) filed on December 7, 2007.

The petition is **GRANTED**.

Pursuant to applicant's request filed on December 7, 2007, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from December 27, 2007. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Jeffrey Gaffin, Acting Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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JAN 21 2009

In re Application of :
Wei Lin et al :
Application No. 10/042,142 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 03493.00296

This is a decision on the petition, filed January 15, 2009 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 31, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2446 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
P.O. Box 1450
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AT& T LEGAL DEPARTMENT – HAYNES
ATTN: PATENT DOCKETING
ROOM 2A-207 ONE AT & T WAY
BEDMINISTER, NJ 07921

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of :
Wei Lin et al :
Application No. 10/042,142 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 03493.00296

This is a decision on the petition, filed June 5, 2009 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 15, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that the fee be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2446 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Michael N. Haynes
1341 Huntersfield Close
Keswick, VA 22947

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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AT&T LEGAL DEPARTMENT - Haynes
ATTN: PATENT DOCKETING
ROOM 2A-207 ONE AT & T WAY
BEDMINISTER, NJ 07921

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OFFICE OF PETITIONS

In re Application of
Wei LIN, et al.
Application No. 10/042,143
Filed: January 11, 2002
Attorney Docket No. **03493.00337**

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 5, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 11, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Michael N. Haynes appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Hayes desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Haynes, 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.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2446 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

Cc: **MICHAEL N. HAYNES**
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment of the application.*

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

NIXON & VANDERHYE, P.C.
1100 N. GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201

In re Application of
Satoshi Nishiumi, et al.
Application No. 10/042,175
Filed: January 11, 2002
For: **THREE-DIMENSIONAL IMAGE PROCESSING APPARATUS**

DECISION ON PETITION

This is a decision on the request filed April 13, 2004, which is treated as a Petition to Withdraw Holding of Abandonment, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed April 28, 2003. A Notice of Abandonment was mailed March 24, 2004.

Petitioner alleges to have timely filed a response to said Office communication on June 26, 2003. In support thereof, Petitioner provided evidence in the way of a copy of the amendment, terminal disclaimer and a date stamped post card receipt which itemizes the receipt of an amendment and terminal disclaimer on June 26, 2003.

A review of the file records reveals that the original amendment and terminal disclaimer filed on June 26, 2003 has been located and matched with the file. Further review reveals that the Notice of Abandonment was rescinded, i.e., without formal reply to the subject petition. On July 9, 2004 a new non-final Office communication was mailed. On January 27, 2005, the file record reveals an interview summary which indicates that it is applicants' desire to abandon the application. A Notice of Abandonment was mailed on January 27, 2005.

For the record, applicants' response of June 26, 2003 was received, matched with the file and the holding of abandonment was withdrawn. The petition is **Dismissed as Moot.** Delay in receiving, addressing applicants' petition and any inconvenience caused petitioner are regretted.

In view of the above stated interview summary and Notice of Abandonment of January 27, 2005, the application is abandoned.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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APR 29 2005

OFFICE OF PETITIONS

In re Application of :
Adamo Sala :
Application No. 10/042,184 :
Filed: January 11, 2002 : ON PETITION
Title of Invention: :
TYRE-ASSEMBLING APPARATUS :

This is a decision on the Petition to Accept Originally Filed Application, filed July 1, 2004. The petition is properly treated as a petition under 37 CFR 1.181. The delay in treating this petition is regretted.

On January 11, 2002, Applicant filed the above-identified application as a continuation of International Application PCT/EP00/05972. Applicant included, *inter alia*, a copy of PCT/EP00/05972; a preliminary amendment, an Appendix to Preliminary Amendment; an Abstract of the Disclosure, an Information Disclosure Statement ("IDS"). The IDS listed several documents including application WO 98/52,740, and a copy of WO 98/52,740.

This Office processed WO 98/52,740 as the continuing application.

Applicant files the instant petition and requests that this Office replace the application papers (specification, claims, abstract and drawings) of WO 98/52,740, with PCT/EP00/05972, and that WO 98/52,740 be associated with the IDS. Applicant further requests that the Preliminary Amendment and Appendix to Preliminary Amendment be applied to PCT/EP00/05972.

A review of the application file reveals that PCT/EP00/05972 was present on January 11, 2002, and included a specification, claims, abstract and drawings. As such, the application papers from PCT/EP00/05972 are sufficient to accord a filing date of January 11, 2002.

Accordingly, this petition is **granted.**

The application papers (specification, claims, abstract and drawings) of WO 98/52,740, have been replaced with those of PCT/EP00/05972.

No fee has been charged and none is due.

The file is being referred to Technology Center Art Unit 1733 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
Bernd Riedl et al. :
Application No. 10/042,226 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No.: Bayer 25A :

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 15, 2005 for failure to timely file a reply to the final Office action mailed September 14, 2005, which set a three (3) month shortened statutory period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The Notice of Appeal filed March 15, 2006 has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, accompanied by the fee required by law, runs from the date of this decision.

Additionally, the file reveals that a three month extension of time was also filed with the petition however, 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 $1020.00 extension of time fee submitted with the petition on March 15, 2006 was subsequent to the maximum period obtainable for reply to the Final Office Action mailed September 14, 2005, this fee is unnecessary and will be credited to counsel's deposit account no. 13-3402.

This matter is being referred to Technology Center 1614 for processing of the Notice of Appeal.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Washington DC 20007

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Furaya et al. :
Application No. 10/042,229 : DECISION DISMISSING PTA REQUEST
Filed: January 11, 2002 :
Attorney Docket No. 084437-0158 :

This decision is in response to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely[1] filed on December 10, 2004 requesting that the Patent Office adjust PTA to 70 days.

Applicants request for reconsideration of PTA is **DISMISSED as to the request for 35 days relating to fail to mail at least one notification within fourteen months as required under 37 CFR 1.702(a)(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. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application (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

[1] Issue fee paid on December 10, 2004

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).

Applicants assert that two Office delays occurred during patent prosecution. First, applicants assert that the Office failed to mail at least one notification within fourteen months of the filing date of the application. Applicants assert that the filing date of the application was December 28, 2001 and the date of the mailing of the first notification (an election/restriction) was March 25,2003. In addition, applications project that the issue date will be more than three years beyond the filing date of the application. Applicants agree with the two reductions of 33 days and 2 days pursuant to 37 CFR 1.704(b).

As noted supra, the Office will hold in abeyance any determination of whether the three year requirement has been met until the actual issue date is known. As to the 35 days relating to the violation of 37 CFR 1.702(a)(2), the Office asserts that the 14 month requirement was met. The application was filed on January 11,2002[2] and the first notification occurred on January 29, 2003, a restriction requirement.[3] Accordingly, the Office met the 14 month requirement.

The Office acknowledges authorization to charge a fee of the $200.00 fee set forth in 37 CFR 1.18(e) to Deposit Account 23-1925 . No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. Any delays in issuing the application more than four months after payment of the issue fee and other requirements being satisfied will be reflect in the issue notification letter mailed approximately 3 weeks prior to issuance.

Telephone inquiries specific to this matter should be directed to Kery Fries at 571-272-7757.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

[2]The Office is not sure how applicants assert filing date is December 28, 2001. The Office believe the date to be January 11, 2002.

[3]The Office is also unsure as to applicants assertion that the restriction occurred on March25,2003. The image file wrapper reflects the date of January 29, 2003.

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FOLEY & LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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SEP 0 6 2006

OFFICE OF PETITIONS

In re Patent No. 6,962,919 :
Issued: November 8, 2005 :
Application No. 10/042,229 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket Number: 84437-158 :

This is a decision on the petition, filed March 9, 2006, under 37 CFR 1.183 to correct the assignee's name on the front of the Patent. The petition is treated under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

Petitioner states that the assignee is TAKEDA PHARMACEUTICAL COMPANY LIMITED, and that the abbreviation of part of the assignee's name on the Fee(s) Transmittal form PTOL-85(b) was inadvertent. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct name of the 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.

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that TAKEDA PHARMACEUTICAL COMPANY LIMITED is the assignee of record. Accordingly, as the request complies

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[1] *See* Official Gazette of June 22, 2004

with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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 matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Mitchell B. Wason, Esq.
Hoffman, Wasson & Gitler, PC
Suite 522
2361 Jefferson Davis Highway
Arlington, VA 22202

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JUL 0 1 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 5

In re application of
George M. Halow et al.
Application No. 10/042,236
Filed: January 11, 2002
For: MEDICAL BILLING SYSTEM TO PREVENT FRAUD

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED EXAMINATION)**

This is in response to the petition filed on April 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 requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM: 7/1/02

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ARLINGTON VA 22201

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MAY 2 7 2008

In re Application of :
Ragil, et al. :
Application No. 10/042,248 : DECISION
Filed: 11 January, 2002 :
Attorney Docket No. PET-1710 C1 :

This is a decision on the petition, filed 8 January, 2008 (supplemented thereafter on or about 23 May, 2008), considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

It appears that a new Technology Center/AU designation—1792—has been set forth for this application. Therefore, Petitioner may wish to inquire with the Technology Center/AU to ascertain what changes need be made to papers filed in this matter.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing as to non-receipt requires at the very minimum: a statement from practitioner stating that the Office action was not received by the practitioner; a statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and a brief statement of the calendaring process and a copy of the due-date (calendar) docket

record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively, for a showing of timely and proper reply: a statement from practitioner stating that the reply was timely submitted by the practitioner; and copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to Decision of the Pre-Brief Appeal Conference mailed on 14 June, 2007, with a reply due absent extension of time on or before 14 July, 2007.

The application went abandoned after midnight 14 July, 2007.

It does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed.

On 8 January, 2008, Petitioner filed the instant petition (supplemented thereafter on or about 23 May, 2008), requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181 averring non-receipt supported with copies of the application docket sheet and the due-date docket records, along with the averment by Petitioner that the papers were not found after proper search and as to the nature and process of the docketing system, all in compliance with the guidance set forth in the Commentary at MPEP §711.03(c)(I)(A) and (B).

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of

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To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirements as discussed hereinabove.

CONCLUSION

The petition under 37 C.F.R. §1.181 is **granted**, however, there is no Notice of Abandonment to be vacated.

The instant application is released to Technology Center/AU 1797 to await the Examiner's Answer in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Technology Center/AU where that change of status must be effected.

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KATTEN MUCHIN ROSENMAN LLP
525 WEST MONROE STREET
CHICAGO, IL 60661-3693

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OCT 0 4 2006

OFFICE OF PETITIONS

In re Patent No. 6,841,132	:	
Issue Date: January 11, 2005	:	
Application No. 10/042,258	:	NOTICE
Filed: January 11, 2002	:	
Attorney Docket No. 213202.00358	:	

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 file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

The address on the petition differs from the address of record. Therefore, if appropriate, a change of address or a "fee address" (see PTO/SB/47) should be submitted if petitioner desires to receive Maintenance Fee Reminders which may be mailed for this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This patented file is being returned to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions

#3

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/042,285	01/11/2002	Boyd L. Coomer	P 0276922 P12683

Phillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

OIPE JC97 APR 15 2002 PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 5930

FORMALITIES LETTER

OC000000007432849

Date Mailed: 02/06/2002

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

04/17/2002 SDIRETA1 00000091 10042285

01 FC:101 740.00 OP
02 FC:105 130.00 OP
03 FC:103 108.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **740** *to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $108.
  - **$108** for **6** total claims over 20.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 978.**

A copy of this notice MUST be returned with the reply.

Tamaye A.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

OIPE
APR 15 2002
PATENT & TRADEMARK OFFICE

PATENT
81674-276922

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Boyd L. COOMER** Serial No.: 10/042,285 Filed: January 11, 2002 For: **METHOD AND SYSTEM TO MANUFACTURE STACKED CHIP DEVICES**	Art Unit: 1725 Examiner: Not yet assigned

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: Customer Service Center, Initial Patent Examination Division, Assistant Commissioner for Patents, Washington D.C. ~~20231~~, on April 8, 2002.

By: Roger R. Wise
Roger R. Wise, Reg. No. 31,204

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Customer Service Center
Initial Patent Examination Division
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In response to the "Notice to File Missing Parts of Application, Filing Date Granted," dated February 6, 2002, response to which is due April 8, 2002, enclosed are the following:

X A copy of the "Notice to File Missing Parts of Application Filing Date Granted".

X A "Declaration and Power of Attorney" executed by the inventor(s).

X An "Assignment" document executed by the inventor(s), along with an Assignment Recordation Cover Sheet and a check in the amount of $40.00.

X A check in the amount of $740.00 to cover the filing fee.

X A check in the amount of $108.00 to cover the fee for six additional claims.

X A check in the amount of $130.00 to cover the surcharge for late Declaration.

The Commissioner is hereby authorized to charge any deficiency in payment or credit any overpayment in connection with this matter to our Deposit Account No. 03-3975. A copy of this letter is enclosed.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Dated: April 8, 2002

By: _____

Roger R. Wise
Registration No. 31,204
Attorney for Applicant(s)

725 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-5406
Telephone: (213) 488-7100
Facsimile: (213) 629-1033

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CROWELL & MORING, LLP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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MAR 1 2 2009

OFFICE OF PETITIONS

In re Patent No. 6,879,909 :
Issued: April 12, 2005 :
Application No. 10/042,287 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. 029267.50851US :

This is a decision on the petition under 37 CFR 1.182, filed November 6, 2008, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20060601

DATE : June 12, 2006

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction on Patent No.: 6964439

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:

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER **SPE:** Brian Glessner **Art Unit** 3676

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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SEP 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Frankel et al.	:	
Application No. 10/042,335	:	DECISION ON PETITION
Filed: 11 January, 2002	:	
Atty Docket No. 061047-0282618	:	

This is a decision on the petition filed on 1 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 December, 2005, for failure to timely reply to the non-final Office action mailed on 30 August, 2005, which set a three (3)-month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[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)).

Petitioners have filed an amendment as the required reply.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 1 March, 2006, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 30 August, 2005, and therefore is unnecessary. The extension of time fee paid on 1 March, 2006, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center Art Unit 3624 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

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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)
6,486,611	2002-11-26	10/042,348	2002-01-11	Q68045 (JLR)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2007-01-31
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6486611
Issue Date: November 26,2002
Application No. 10042348
Filed: January 11,2002
Attorney Docket No. Q68045

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 31,2007 ,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 January 31,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

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SEP 12 2002

OFFICE OF PETITIONS

In re Application of
Andrew Gilbert
Application No.10/042,371
Filed: December 27, 2001
Attorney Docket Number: CF-46

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b), filed July 15, 2002.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on December 27, 2001, without an executed oath or declaration, and naming Andrew Gilbert as sole inventor. Accordingly, on February 14, 2001, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition (and fee), the surcharge for late filing of the declaration, a declaration and a three month request for extension of time.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish (1), (2), (5) and (6).

Proof of Refusal to Sign the Oath or Declaration

As to item (1), Rule 47 applicant has failed to show that the legal representative of Andrew Gilbert refused to sign the declaration after having been presented with the application papers. Pursuant to 37 CFR 1.42 the legal representative of the deceased inventor may make the necessary oath or declaration. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The statement of facts indicates only the declaration and assignment documents were sent to Ann Gilbert. Ms. Gilbert as the presumed legal representative must be presented with the opportunity to sign the application papers before rule 47 status will be granted.

An Acceptabl Oath or Declaration

As to item (2), although petitioner submitted a declaration signed by Howard Lutnick, it does not provide sufficient information. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. An officer of a corporation normally is required to sign the oath or declaration. The declaration required must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). Rule 47 applicant indicates proprietary interest is established through the employment contract between eSpeed, Inc. and Andrew Gilbert. However, the excerpt of the contract provided in the petition is not sufficient to establish proprietary interest in this application. Rule 47 applicant may wish to submit the employment contract in its totality.

Showing That Such Action Is Necessary to Preserve the Rights of Parties or to Prevent Irreparable Damage.

As to item (6), applicant has failed to provide a statement that the granting of rule 47 status is necessary to preserve the rights of the rule 47 applicant or prevent irreparable damage. See MPEP 409.03(h).

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 regarding this decision should be directed to Petitions Attorney Charlema R. Grant 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

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Paper No. 16

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JUL 16 2003

OFFICE OF PETITIONS

FISH & NEAVE
1251 AVENUE OF THE AMERICAS
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In re Application of
Andrew C. Gilbert and Mary Ann Gilbert
Application No. 10/042,371
Filed: December 27, 2001
Attorney Docket No. CF-46
Title: SYSTEMS AND METHODS FOR CREATING AND TRADING DYNAMIC SECURITIES

DECISION DISMISSING PETITION UNDER 37 C.F.R. §1.137(F) AS MOOT

This is a decision on the petition filed on April 8, 2003, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month 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 either a foreign or an international application on December 18, 2002.

On October 25, 2002, a Request to Rescind the Nonpublication Request was filed with the Office. The Request further provided notice of an international filing[2]. If an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a

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.

2 Although the notice did not contain the date of the international filing, the current petition reveals the date to be the same date upon which the rescission was filed, December 11, 2002.

counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made[3].

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 will be refunded to petitioner's Deposit Account.

After the mailing of this decision, the application file will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

3 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

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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OCT 01 2008

In re Application of :
Andrew C. Gilbert, et al. :
Application No. 10/042,371 : DECISION ON PETITION
Filed: December 27, 2001 : TO WITHDRAW
Attorney Docket No. 01-1046 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 19, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Laurence S. Rogers on behalf of all attorneys of record 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.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARY ANN GILBERT
5 SCARLET OAK ROAD
CALIFON, NJ 07830

cc: DEAN P. ALDERUCCI
CANTOR FITZGERALD, LP
110 EAST 59TH STREET
6TH FLOOR
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/042,371	12/27/2001	Andrew C. Gilbert	01-1046

CONFIRMATION NO. 6761

POWER OF ATTORNEY NOTICE

64558
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

OC000000032364413

Date Mailed: 10/01/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

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
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Paper No. ~~10~~ 12

LAUREN L. STEVENS, PH.D.
PERLEGEN SCIENCES INC
2021 STIERLIN COURT
MOUNTAIN VIEW, CA 94043

COPY MAILED
JUL 25 2002
OFFICE OF PETITIONS

In re Application of :
John B. Sheehan et al :
Application No. 10/042,406 : NOTICE
Filed: January 9, 2002 :
Attorney Docket No. 1011U-1 :

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 Office of Initial Patent Examination.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Arendt, et al. :
Application No. 10/042,412 : ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. AUS919970761US2 :
For: HIGHLY SCALABLE AND HIGHLY AVAILABLE CLUSTER SYSTEM MANAGEMENT SCHEME

This is a decision on the petition under 37 CFR 1.137(a), filed April 12, 2006, to revive the above-identified application. The petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the July 13, 2005 non-final Office action which set an extendable three month period for reply. No reply being received, the Office considered this application abandoned on October 14, 2005. A Notice of Abandonment was mailed on April 6, 2006.

Petitioners allege that the July 13, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the July 13, 2005 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicants at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because 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.

In short, petitioners have not provided adequate evidence of non-receipt. The petition is dismissed.

It is noted that practitioner asserts the Office action in question is, on its face, defective. If this is in fact the case, then requiring petitioners to file a response to it as a component of a petition to revive would be a waste of petitioners' time and efforts. Therefore, the petition will be treated only under 37 CFR 1.181, so that when petitioners file a grantable reconsideration petition, the Office can mail a replacement Office action with a new period for response. The examiner will determine the contents of the new Office action.

No petition fee was charged in connection with this matter.

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

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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
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ALEXANDRIA, VA 22313-1450
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DILLON & YUDELL LLP
8911 NORTH CAPITAL OF TEXAS HWY
SUITE 2110
AUSTIN TX 78759

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JUN 0 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Arendt, et al. :
Application No. 10/042,412 :
Filed: January 7, 2002 :
Attorney Docket No. AUS919970761US2 :
For: HIGHLY SCALABLE AND HIGHLY AVAILABLE CLUSTER SYSTEM MANAGEMENT SCHEME

This is a decision on the reconsideration petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the July 13, 2005 non-final Office action, which set an extendable three month period for reply. No reply being received, the Office considered this application abandoned on October 14, 2005. A Notice of Abandonment was mailed on April 6, 2006.

Petitioners allege that the July 13, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven non-receipt. The petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2143 for the mailing of a non-final Office action with a new period for response.

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

KATTEN MUCHIN ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-8508

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OFFICE OF PETITIONS

In re Application of :
YAMAMORI, et al. :
Application No. 10/042,441 : DECISION GRANTING PETITION
Filed: November 9, 2001 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. FUJS19.137 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Mr. Dexter T. Chang 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 in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Paper No. 8

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Suite 2000
Two Embarcadero Center
San Francisco CA 94111

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/042,485
Filed: January 8, 2002
Attorney Docket No. 22738.00300
For: NETWORK CONFERENCING SYSTEM, ATTENDANCE AUTHENTICATION METHOD AND PRESENTATION METHOD

DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) & CONSTRUCTIVE PETITION UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 23, 2003 (certificate of mailing date June 18, 2003), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition. In addition, the petition will be treated as a constructive petition under 37 CFR 1.55(c), requesting acceptance of unintentionally delayed claims under 35 USC 119 (a) - (d) for benefit of the filing date of the following foreign applications: Japanese Application Nos. P2000-149116, filed on May 19, 2000; P2000-149119, filed on May 19, 2000; and P2000-149120, filed on May 19, 2000.[1]

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The constructive petition under 37 CFR 1.55(c) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[2]

---

[1] A petition under 37 CFR 1.55(c) is required because the claims for benefit of the Japanese applications were first submitted on June 10, 2002. The claims had to be submitted within 4 months of the filing date of the instant application, or May 8, 2002, which is earlier than 16 months from May 19, 2000, or September 19, 2001. 37 CFR 1.55(a)(1)(i)

[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

(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 January 8, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed international application, PCT/JP01/03911, 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 international application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed international application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. As authorized, the $1,300.00 fee required by 37 CFR 1.78(a)(3)(ii) was charged to petitioner's Deposit Account No. 50-2603. 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 international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the nonprovisional application must be filed within 12 months of the filing date of the foreign application.

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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 above-identified pending nonprovisional application was filed on January 8, 2002, which is after November 29, 2000, is a continuation of PCT/JP01/03911, filed May 10, 2001, which claims priority to Japanese Application Nos. P2000-149116; P2000-149119; and P2000-149120, all filed on May 19, 2000. PCT/JP01/03911 was filed within 12 months of May 19, 2000, which is the earliest filing date of the foreign applications to which benefit is claimed. The declaration filed on June 10, 2002 also identifies the foreign applications for which priority is claimed. Since petitioner has already paid the $1,300.00 surcharge for the petition under 37 CFR 1.78(a)(3), a petition fee for the constructive petition under 37 CFR 1.55(c) will not be charged. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c)is **granted**.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international application and the foreign applications accompanies this decision on petition.

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 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.

Petitioner is required to submit a certified copy of the foreign priority paper(s) prior to the granting of a patent. 35 USC 119(b)(3).

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed international application and for consideration of the foreign priority claims under 35 USC 119(a) through (d) and 37 CFR 1.55(a).

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 13 2004

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CROSBY, HEAFEY, ROACH & MAY
Suite 2000
Two Embarcadero Center
San Francisco CA 94111

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APR 30 2004

OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 10/042,485
Filed: January 8, 2002
Attorney Docket No. 22738.00300
For: NETWORK CONFERENCING SYSTEM, ATTENDANCE AUTHENTICATION METHOD AND PRESENTATION METHOD

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) &
CONSTRUCTIVE PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 23, 2003 (certificate of mailing date June 18, 2003), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition. In addition, the petition will be treated as a constructive petition under 37 CFR 1.55(c), requesting acceptance of unintentionally delayed claims under 35 USC 119 (a) - (d) for benefit of the filing date of the following foreign applications: Japanese Application Nos. P2000-149116, filed on May 19, 2000; P2000-149119, filed on May 19, 2000; and P2000-149120, filed on May 19, 2000.[1]

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The constructive petition under 37 CFR 1.55(c) is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;[2]

---

[1] A petition under 37 CFR 1.55(c) is required because the claims for benefit of the Japanese applications were first submitted on June 10, 2002. The claims had to be submitted within 4 months of the filing date of the instant application, or May 8, 2002, which is earlier than 16 months from May 19, 2000, or September 19, 2001. 37 CFR 1.55(a)(1)(i)

[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

(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 January 8, 2002, and was pending at the time of filing of the instant petition. A reference to the prior-filed international application, PCT/JP01/03911, 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 international application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed international application was submitted during the pendency of the instant nonprovisional application. *See* 35 U.S.C. § 120. As authorized, the $1,300.00 fee required by 37 CFR 1.78(a)(3)(ii) was charged to petitioner's Deposit Account No. 50-2603. 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 international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;

(3) the surcharge, as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the nonprovisional application must be filed within 12 months of the filing date of the foreign application.

---

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 above-identified pending nonprovisional application was filed on January 8, 2002, which is after November 29, 2000, is a continuation of PCT/JP01/03911, filed May 10, 2001, which claims priority to Japanese Application Nos. P2000-149116; P2000-149119; and P2000-149120, all filed on May 19, 2000. PCT/JP01/03911 was filed within 12 months of May 19, 2000, which is the earliest filing date of the foreign applications to which benefit is claimed. The declaration filed on June 10, 2002 also identifies the foreign applications for which priority is claimed. Since petitioner has already paid the $1,300.00 surcharge for the petition under 37 CFR 1.78(a)(3), a petition fee for the constructive petition under 37 CFR 1.55(c) will not be charged. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c)is **granted**.

A corrected Filing Receipt, which includes the priority claims to the prior-filed international application and the foreign applications accompanies this decision on petition.

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 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.

Petitioner is required to submit a certified copy of the foreign priority paper prior to the granting of a patent. 35 USC 119(b)(3).

Any inquiries concerning this decision may be directed to Senior Petitions Attorney E. Shirene Willis at (703) 308-6712.

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course and for processing and consideration by the Examiner of applicant's claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (2) for the benefit of priority to the prior-filed international application and for consideration of the foreign priority claims under 35 USC 119(a) through (d) and 37 CFR 1.55(a).

Charles Pearson
Director, Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

OIPE JC116 MAY 13 2004 PATENT & TRADEMARK OFFICE

2166

Please type a plus sign (+) inside this box → [+]

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/042,485
Filing Date	January 8, 2002
First Named Inv ntor	Seikei Lee, et al
Group Art Unit	2166
Examiner Name	Not Known
Total Number of Pages in This Submission	Attorney Docket Number: 352738.00300

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Response
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☒ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s)
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:
  Return Postcard

Remarks

The Commissioner is hereby authorized to charge any fees (or credit any overpayment) associated with this communication and which may be required under 37 CFR 1.78 to Deposit Account No. 50-2603, referencing Attorney Docket No. 351778.05000. A Duplicate sheet is attached.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Doyle B. Johnson Reed Smith LLP
Signature	Doyle B. Johnson
Date	May 10, 2004

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: May 10, 2004

Typed or printed name	Norma E. Gillespie		
Signature	Norma E. Gillespie	Date	May 10, 2004

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be send to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of :
John M. Harris, et al. :
Application No. 10/042,499 : DECISION ON PETITION
Filed: January 7, 2002 :
Attorney Docket No. CE09179R :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 27, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 27, 2006. Accordingly, the date of abandonment of this application is March 28, 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 $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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SAN FRANCISCO, CA 94111

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OFFICE OF PETITIONS

In re Application of
Seikei Lee et al
Application No. 10/042,502
Filed: January 8, 2002
Attorney Docket No. 22738.00500

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 June 20, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to the prior-filed PCT application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[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 January 8, 2002, 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).

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. § 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 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, as well as to the two Japanese foreign applications noted on the declaration, 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 2143 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/JP01/03913, filed May 10, 2001, as well as to the two Japanese foreign applications.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

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.
10042504	10/18/01	WONG, SAU C.	SNDK.193US3

DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

EXAMINER	
Tan T.. Nguyen	
ART UNIT	**PAPER**
2827	20070806

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Request for Certificate of Correction submitted by Applicant on June 21, 2007 has been received and approved.

Tan T. Nguyen
Primary Examiner
Art Unit: 2827

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-28-07

Paper No.: _____

TO SPE OF : Technology Center 2827

10/042504

SUBJECT : Request for Certificate of Correction on Patent No.: 6606026 67 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The drawing replacement sheets are approved.

SPE

2827
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.

NORTON & DIEHL, LLC
77 BRANT AVE
SUITE 110
CLARK, NJ 07066

COPY MAILED

JUL 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas Murdock	:	DECISION ON
Application No. 10/042,508	:	PETITION
Filed: January 8, 2002	:	
Atty Docket No. ARC 2452D1	:	
	:	

This is a decision on the petition filed by facsimile transmission on June 16, 2005, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 14, 2004. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under §1.136(a). On May 3, 2005, applicant replied with an amendment, made timely by an accompanying petition for a two-month extension of time. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed June 6, 2005. No further reply received and no further extension obtained, the application became abandoned effective May 15, 2004. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

With the instant petition (and petition fee), petitioner filed a Request for Continued Examination (RCE) under 37 CFR 1.114, including an amendment as the submission, and payment of the RCE

fee. The RCE has been accepted as the required reply under 37 CFR 1.137(b)(1). Petitioner has met all other requirements for a grantable petition under 37 CFR 1.137(b).

The application file is being forwarded to Technology Center 1762 for consideration by the examiner of the submission under § 1.114, the amendment filed June 16, 2005.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/26/2010

Applicant	: Pawan Kulshreshtha	: DECISION ON REQUEST FOR
Patent Number	: 7647220	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/042,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **844** 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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/23/05 Paper No.: _____

TO : Supervisor, Art Unit 1731

SUBJECT : Certificate of Correction Request in Patent No.: 6,752,907 B2 10/042,513

A response to the following question is requested with respect to the accompanying request for a certificate of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ YES ☐ NO

☐ Comments: _____

Steven P. Griffin 1731

Supervisor Art Unit

STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

10/042,513.

Cafe

FERRELLS, PLLC

A Virginia Professional Corporation
Practice Limited to Intellectual Property Matters

Michael William Ferrell
4400 Fair Lakes Court
Suite 60
Fairfax, Virginia 22033-3899

Telephone: 703-968-8600
Facsimile: 703-968-5500
E-mail: mike@ferrellaw.com
Website: www.ferrellaw.com

January 28, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: *Request for Certificate of Correction* for
United States Patent No. 6,752,907 B2
Issued June 22, 2004
Steven L. Edwards et al.
entitled *Wet Crepe Throughdry Process For Making Absorbent Sheet and Products Thereof*
Our Reference 2196-1 (FJ-99-41)

Certificate
FEB 08 2005
of Correction

Sir:

Attached hereto is a proposed *Certificate of Correction* in the above-noted patent, together with the attached sections of the patent wherein the errors are highlighted thereon.

Please issue a *Certificate of Correction* pursuant to 35 USC 254 to correct these mistakes, some of which occurred through the fault of the United States Patent and Trademark Office and some of which occurred through Applicant's mistakes. All corrections are of a typographical nature and are believed appropriate subject matter for a *Certificate of Correction*.

Please charge Deposit Account No. 50-0935 for any fees in connection with this matter.

Sincerely,

MW Ferrell

Michael W. Ferrell
Reg. No. 31,158

/crm
Attachments

APPROVED - SPG
4/11/05

FEB 11 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: Andrew William Mackie	: DECISION ON REQUEST FOR
Patent Number	: 7610189	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/042,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Joseph Giglio
100 Chapin Ave.
Red Bank NJ 07701

COPY MAILED
DEC 0 8 2008

In re Application of :
GIGLIO, JOSEPH :
Application No. 10/042,535 : DECISION ON PETITION
Filed: 01/09/2002 :
Title: THERAPEUTIC EXERCISE DEVICE :
WITH ADJUSTABLE FRAME FOR :
WHEELCHAIR USERS AND STANDARD :
FOUR LEGGED CHAIR USERS :

This is a decision on the petition under 37 CFR 1.137(a), filed July 11, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

This application became abandoned for failure to file a timely reply to the nonfinal Office action mailed September 9, 2004, which set a three-month shortened statutory period to reply. No extension of the period were obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned on December 10, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 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 37 CFR 1.137(a) was unavoidable; and,

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant 37 CFR 1.137(d).

This petition lacks item (3) above.

Pro se petitioner filed the instant petition, asserting that the delay in filing the reply was unavoidable. Petitioner asserts that he suffered a serious illness cause by a massive stroke and is now disabled. Petitioner states that the stroke occurred on October 25, 2003. In support thereof, petitioner provided medical records for the periods of November 2003, December 2003, and September 2005.

DISCUSSION

The showing of record before the Office is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a)(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.) In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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), Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987). Moreover, the Office notes that 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 "unavoidable."

In the present petition, petitioner asserts incapacitation due to a medical condition as the cause of the delay in timely replying to the Office action. To establish a showing of "unavoidable" delay based upon incapacitation, petitioner must demonstrate that petitioner's incapacitation was of such a nature and degree as to render him unable to conduct business (*e.g.*, correspond with the Office) during the period for reply, as well as explain the delay in the filing of a petition to revive. **Such a showing must be supported by a statement(s) from petitioner's treating physician(s), and such statement(s) must provide the nature and degree of the petitioner's incapacitation from the due date for reply until the date petitioner files a grantable petition to revive. Furthermore, the physician's statement must be adequate to persuade the Office that from the time the reply was due until the filing of this petition petitioner's medical condition was of such a degree of severity that it prevented him from acting to respond to the Office action, including even filing an extension of time for reply (and fee).**

Presently, petitioner has not met the showing of incapacitation due to a medical condition. Initially, the Office notes that petitioner did not provide a statement from his treating physician(s), setting forth the nature and degree of severity of petitioner's incapacitation from the due date for reply until the date petitioner files a grantable petition to revive. Furthermore, the medical records do not reveal petitioner's medical condition for the ENTIRE PERIOD from December 9, 2004 to the present. Rather, petitioner provided limited documentation for sporadic periods in November 2003, December

2003, and September 2005. Thus, it is unclear if there were any periods from December 9, 2004 to the present when petitioner was able to conduct business and take care of his affairs. Accordingly, petitioner has not provided the necessary documentation required to show that from the time the reply was due until the filing of a grantable petition petitioner's medical condition was of such a degree of severity that it prevented him from timely replying to the Office action of September 9, 2004.

CONCLUSION

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 1.137(a)." Extensions of time are permitted under 37 CFR 1.136(a).

In the alternative, while the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 1.137(b) on the basis of unintentional delay. For petitioner's convenience, a form for filing a petition to revive under 37 CFR 1.137(b) is enclosed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action (unless previously filed);

(2) The petition fee as set forth in 1.17(m) (currently an additional $810.00 for a small entity); and,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The Office notes that petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent "unintentional delay" standard. The Office is almost always satisfied as to whether "the entire delay...was unintentional" on the basis of statement(s) by the applicant or representative explaining the cause of the delay (accompanied at most by copies of correspondence relevant to the period of delay). MPEP 711.03(c)(II)(C). Many petitions originally filed under 37 CFR 1.137(a) end up being granted under 37 CFR 1.137(b) when the applicant realizes that sufficient evidence concerning the delay is too difficult to obtain or the cause of delay simply does not amount to "unavoidable delay" within the meaning of 37 CFR 1.137(a). Id. Since the requirements of 37 CFR 1.137(a) are more exacting than the corresponding requirements of 37 CFR 1.137(b), a petition under 37 CFR 1.137(a) is significantly less likely to be grantable as filed than is a petition under 37 CFR 1.137(b). Id. The Office usually must render a number of interlocutory decisions dismissing a petition under 37 CFR 1.137(a) and requesting additional evidence until either the applicant provides a satisfactory showing of unavoidable delay (in which case the petition can be granted) or the Office concludes that the applicant cannot provide a satisfactory showing of unavoidable delay (in which case the petition must be denied). Thus, the period between when an applicant first files a petition to revive and the Office renders a decision granting (or denying) that petition will, more often than not, be much longer if the petition is under 37 CFR 1.137(a) than it would have been if the petition were under 37 CFR 1.137(b). Id.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By fax:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior 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

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P. O. BOX 7599
LOVELAND, CO 80537-0599

COPY MAILED

MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of :
Michael Renne Ty Tan et al :
Application No. 10/042,590 : DECISION ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. 10010679-1 :

This is a decision on the petition, filed September 22, 2003,[1] which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action (restriction requirement) mailed February 12, 2003, which set a one (1) month shortened statutory period for reply. Accordingly, a reply thereto was due on or before March 12, 2003. A Notice of Abandonment was mailed on August 29, 2003.

Petitioner asserts that a timely reply to the February 12, 2003 Office action was in fact timely filed via certificate of mailing on February 28, 2003. In support of this assertion, petitioner has supplied a copy of the previously filed reply bearing a certificate of mailing date of February 28, 2003, as well as a stamped return postcard, which acknowledges receipt on March 6, 2003 of a response for Application No. 10/041,590 (and having docket No. 50110-1830, which is not the docket number for this application). The copy of the reply supplied with the petition includes all the correct identifying data for this application, except for the application number. The postcard receipt correctly identifies this application solely by the applicant's last name and title of the invention.

---

[1] The existence of this petition was only recently brought to the attention of the Office of Petitions. The delay in replying to this petition is sincerely regretted.

Under Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the paper with the instant file.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

This application is being referred to Technology Center AU 2828 for appropriate action on the reply to the February 12, 2003 restriction requirement.

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

Paper No. 12

HOVEY WILLILAMS TIMMONS & COLLINS
2405 GRAND, SUITE 400
KANSAS CITY, MO 64108

COPY MAILED

AUG 26 2003

OFFICE OF PETITIONS

In re Application of
Reams R. Ponting et al
Application No. 10/042,593
Filed: January 9, 2002
Attorney Docket No. 31688

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed August 25, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1761 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

Paper No. ____

HOVEY WILLILAMS TIMMONS & COLLINS
2405 GRAND, SUITE 400
KANSAS CITY, MO 64108

OIPE JC10 SEP 30 2003 PATENT & TRADEMARK OFFICE

COPY MAILED

AUG 26 2003

OFFICE OF PETITIONS

In re Application of
Reams R. Ponting et al
Application No. 10/042,593
Filed: January 9, 2002
Attorney Docket No. 31688

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed August 25, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1761 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

RECEIVED
AUG 29 2003
HOVEY WILLIAMS LLP

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).

ALECTO
AUG 29 2003
ENTERED BY

10-01-03

B

OIPE JC10 SEP 30 2003 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	)	Examiner: SIMONE, Timothy F.
	)	Group Art Unit: 1761
PONTING, Reams R.	)	
	)	
Serial No.: 10/042,593	)	
	)	
Filed: January 9, 2002	)	
	)	
Title: APPARATUS FOR DEEP FAT FRYING	)	

TRANSMITTAL

Transmitted herewith is/are: Express Mail Transmittal (1 pg); Cover Letter requesting Commissioner Apply fees previously paid (1 pg); Transmittal Form PTOL-85(b) (1 pg); Copy of Decision Granting Petition Under 37 CFR 313(c)(2) (1 pg); and return postcard. This/These document(s) is/are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Box ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 30, 2003.

EL 993325562 US

Respectfully submitted,

HOVEY WILLIAMS LLP

by Thomas H. Van Hoozer

Thomas H. Van Hoozer, Reg. No. 32,761
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108
(816) 474-9050

ATTORNEYS FOR APPLICANT

(Docket No. 31688)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC10 SEP 30 2003 PATENT & TRADEMARK OFFICE

Application of:	)	Examiner: SIMONE, Timothy F.
	)	Group Art Unit: 1761
FONTING, Reams R.	)	
	)	
Serial No.: 10/042,593	)	
	)	
Filed: January 9, 2002	)	
	)	
Title: APPARATUS FOR DEEP FAT FRYING	)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO APPLY THE ISSUE FEE

The 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. Said Issue Fee and Publication Fee was paid on July 1, 2003. A copy of the Decision Granting Petition mailed August 26, 2003 advising that the Issue Fee previously paid may be applied is attached for the ready reference of the Office. The statement referenced in footnote 1 of that Decision has been inserted in Block 4 of the Fee Transmittal, PTOL-85(b).

Please apply any applicable charges to our Deposit Account 19-0522.

Respectfully submitted,

HOVEY WILLIAMS LLP

by _____

Thomas H. Van Hoozer, Reg. No. 32,761
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108
(816) 474-9050

ATTORNEYS FOR APPLICANT

(Docket No. 31688)

UNITED STATES 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. ____

HOVEY WILLILAMS TIMMONS & COLLINS
2405 GRAND, SUITE 400
KANSAS CITY, MO 64108

OIPE
JAN 09 2004
PATENT & TRADEMARK OFFICE
JC138

COPY MAILED

AUG 26 2003

OFFICE OF PETITIONS

In re Application of
Reams R. Ponting et al.
Application No. 10/042,403
Filed: January 9, 2002
Attorney Docket No. 31688

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed August 25, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 1, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1761 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

RECEIVED
AUG 29 2003
HOVEY WILLIAMS LLP

[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).

ALECTO
AUG 29 2003
ENTERED BY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MILES & STOCKBRIDGE P.C.
1751 PINNACLE DRIVE
SUITE 500
McLEAN, VA 22102-3833

COPY MAILED

NOV 0 2 2005

OFFICE OF PETITIONS

In re Patent No. 6,857,175 :
Issue Date: February 22, 2005 :
Application No. 10/042,623 : ON PETITION
Filed: January 9, 2002 :
For: METHOD FOR RIVETING OR :
PIERCING AND A DEVICE FOR :
CARRYING OUT METHOD :

This is a decision on the petition under 37 CFR 1.181, filed August 30, 2005, requesting a duplicate Letters Patent. The petition is properly treated under 37 CFR 1.182.

The petition is **GRANTED**.

The file record discloses that the instant application matured into U.S. Patent No. 6,857,175 on February 22, 2005. Petitioner, however, contends that the patent was never received and is thus presumed lost.

In view of the facts set forth in the petition, it is concluded that the patent has been lost.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to Files Repository.

Questions concerning this matter may be directed to the undersigned at 571-232-3232.

Derek L. Woods
Attorney
Office of Petitions

cc: Kimberly Terrell, South Tower, 8th Floor, Room C-41 (FAX 703-746-4658)

#16

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

Otto Regner
5491 Winchester
Troy, MI 48085

MAILED

JAN 27 2003

Office of the Director
Group 3600

In re application of
Otto Regner
Application No. 10/042,626
Filed: January 11, 2002
For: CYCLO TORQUE MULTIPLIERS

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on December 24, 2002, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of the applicant's German Birth Certificate showing that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm: 1/15/03

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

Paper No. 11

OTTO REGNER
5491 WINCHESTER
TROY, MI 48085

COPY MAILED

APR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Otto Regner
Application No.: 10/042,626
Filed: January 11, 2002
Attorney Docket No:

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), March 18, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed February 21, 2003. The notice set a period for a 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 May 22, 2003. A Notice of Abandonment was mailed on September 22, 2003.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) or (2) above.

As to item (1), above a timely reply to the non-final Office action was not found among the petition papers. Although petitioner asserts that a reply is with the examiner, the only response that petitioner could be referencing is a communication filed December 15, 2003, and this communication was not filed within the maximum allowable period for reply set by the non-final Office action. Petitioner must, therefore, file a proper response to the non-final Office action, i.e., an amendment or continuing application before the petition can be considered grantable.

As to item (3), the petition fee of $665.00 was not found. It is noted that petitioner states that no fee is required because the abandonment was not the fault of petitioner. Petitioner is advised that the fee for the instant petition that was filed under 37 CFR 1.137(b) is $665.00 (small entity) and must be remitted before the petition can be considered grantable. Petitioner may wish to consider file a petition under 37 CFR 1.181 to withdraw the holding of abandonment for which there is no fee, or a petition under 37 CFR 1.137(a) for which the fee is $55.00, but the burden of proof is much higher than that of the instant petition filed under 37 CFR 1.137(b). A form for the petition under 37 CFR 1.137(a) is enclosed for petitioner's convenience.

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 concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/61

UNITED STATES 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

OTTO REGNER
5491 WINCHESTER
TROY, MI 48085

COPY MAILED

AUG 0 6 2004

OFFICE OF PETITIONS

In re Application of :
Otto Regner :
Application No. 10/042,626 : ON PETITION
Filed: January 11, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(a) filed July 22, 2004.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed February 21, 2003. The Notice set shortened statutory period for reply of three months from its mailing date. No response was believed to have been received within the allowable period and the application became abandoned on May 22, 2003. A Notice of Abandonment was mailed on September 22, 2003.

The amendment filed July 22, 2004, is noted and made of record.

The file is now being forwarded to Technology center 3600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Joseph C. Andras
MYERS DAWES & ANDRAS LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

MAIL

JUL 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Charles F. Benninghoff III
Application No. 10/042,670
Filed: January 09, 2002
For: METHOD FOR CERTIFYING AND UNIFYING DELIVERY OF ELECTRONIC PACKAGES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed July 08, 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 filed July 08, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Charles F. Benninghoff III
32071 Peppertree Bend
San Juan Capistrano, CA 92675

UNITED STATES PATENT AND TRADEMARK OFFICE

#4

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

JJGJR 03-02

Paper No. 4

KURT L. GLITZENSTEIN
FISH & RICHARDSON
225 FRANKLIN ST.
BOSTON, MA 02110-2804

COPY MAILED

MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of :
Luneau :
Application No. 10/042,686 : DECISION GRANTING PETITION
Filed: 14 March, 2000 :
Attorney Docket No. 10200-007002 :

This is a decision on the petition filed on 27 August, 2001, inappropriately under 37 C.F.R. §1.182, requesting that the Continued Prosecution Application (CPA) filed on 14 March, 2000, and based on prior application No. 08/660,814 (issued as U.S. Patent No. 6,038,443 on 14 March, 2000) be treated as a continuation application under 37 C.F.R. §1.53(b), rather than 37 C.F.R. §1.53(d), and be accorded a filing date of 14 March, 2000. A subsequent petition, this appropriately under 37 C.F.R. §1.53(e), was filed via FAX on 25 February, 2002, to that same end.

The petition under 37 C.F.R. §1.53(e) is **GRANTED**, and the petition under 37 C.F.R. §1.182 is **DISMISSED as moot**.

A review of the file of prior application No. 08/660,814 reveals that a request for a continued prosecution application (CPA) under 37 C.F.R. §1.53(d) based on prior Application No. 08/660,814 was filed in the above-identified patent application on 14 March, 2000. The prior application, however, issued as U.S. Patent No. 6,038,443 on 14 March, 2000, as a result of applicant's payment of the issue fee on 13 December, 1999. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 08/660,814 are no longer available for processing under 37 C.F.R.§1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 14 March, 2000, have been removed from the file of application No. 08/660,814 and have been assigned application No. 10/042,686 for identification purposes. The present petition has also been placed in the file of Application No. 10/042,686. All further correspondence concerning the application deposited on 14 March, 2000, should be directed to Application No. 10/042,686, not Application No. 08/660,814.

The present petition requests that the CPA request be treated as an application under 37 C.F.R. §1.53(b).

A petition to accept and treat an improper application filed under 37 C.F.R.§1.53(d) as a proper application under 37 C.F.R. §1.53(b) must include: (1) the $130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 C.F.R. §1.53(d).

The petition is accompanied by a specification, drawings, and a copy of a signed declaration. The submission of these application papers with the petition is understood as a representation by counsel that the specification and drawings do not contain any subject matter that would have been new matter in the prior application.

The petition under 37 C.F.R. §1.53(e) for a filing date under 37 C.F.R. §1.53(b) is **granted**.

Counsel's check in payment of $130.00 as the petition fee upon filing of the inappropriate petition under 37 C.F.R. §1.182 will be used instead to satisfy the fee for the petition appropriately filed under 37 C.F.R. §1.53(e), and the authorization to charge Deposit Account 06-1050 (0200-007002) will be used to pay the filing fee ($380.00) uncharged at the time of the 14 March 2000, filing.

Application No. 10/042,686 is being forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 C.F.R. §1.53(b), not under 37 C.F.R. 1.53(d), with a filing date of 14 March, 2000, using the application papers supplied on 25 February, 2002.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Senior Attorney, Office of Petitions, at (703)305-9199.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Docket No. 1090-006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
)
Luneau, David J.)
)
Serial No. 08/660,814)
)
Filed: June 10, 1996)
)
For: CALLING PARTY ANNOUNCEMENT APPARATUS)

FAX RECEIVED
FEB 25 2002
PETITIONS OFFICE

Assistant Commissioner for Patents
Box CPA
Washington, D.C. 20231

EXPRESS MAIL CERTIFICATE

Express Mail Label Number: EL384499714US
Date of Deposit 3-14-00

I hereby certify that the following attached paper and fee:

Continued Prosecution Application Request Transmittal

as being deposited with the United States Postal Service "Express Mail Post Office to Addresse" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231.

William B. Ritchie, Esq.

FAX RECEIVED

FEB 2 5 2002

PETITIONS OFFICE

Attorney Docket No. 1090-006 Client Lundau
Date of Deposit 031400

The Patent & Trademark Office acknowledges, and has stamped hereon, the date of receipt of the items listed below concerning the following:

☒ Patent Application Serial No. 08/660,814 Filed: 6-10-96
☐ Patent No. _____ Issued: _____
☒ Express Mail Certificate, Label No. EL384499714
☐ Transmittal Letter ☐ Small Entity Form ☐ Declaration/Power of Attorney
☐ Specification, ____ number of pages ☐ Notice to File Missing Parts
☐ Claims, _____ Independent _____ Multiple Dependent _____ Total
☐ Abstract ☐ _____ Sheets of Drawings ☐ Petition to Make Special
☐ Recordation Form Cover Sheet ☐ Transmittal of New Drawings
☐ Assignment ☐ Petition for Extension of Time ☐ Fee Addressee
☐ Amendment ☐ Appeal Brief ☐ Status Inquiry ☐ Notice of Appeal
☐ Certificate of Mailing ☐ Issue Fee Transmittal ☐ Application w/ Missing Parts
☐ Check in the Amount of $ _____
☐ Deduct Fee of $ _____ from Deposit Account #500229
Other CPA

OIPE
MAR 14 2000
PATENT & TRADEMARK OFFICE

MAILROOM
FEB 25 2002
PETITIONS OFFICE

Attorney Docket No. 1090-006 Client LUNEAU ✓
Date of Deposit 6-10-96

The Patent & Trademark Office acknowledges, and has stamped hereon, the date of receipt of the items listed below concerning the following:

☒ Patent Application Serial No. TO BE ASSIGNED Filed: CONCURRENT
☐ Patent No. _____ Issued: _____

☒ Express Mail Certificate, Label No. EM121568404US
☒ Transmittal Letter ☒ Small Entity Form
☒ Declaration/Power of Attorney
☒ Specification, 21 number of pages
☒ Claims, 2 Independent _____ Multiple Dependent 17 Total
☒ Abstract ☒ 6 Sheets of Drawings ☐ Prior Art Statement
☐ PTO form 1449 ☐ _____ Copies of Prior Art Patents
☐ Assignment ☐ Petition for Extension of Time
☒ Check in the Amount of $ 375 ☐ Notice of Appeal
☐ Amendment ☐ Appeal Brief 08/660814
☒ Certificate of Mailing ☐ Issue Fee Transmittal
Other _____

PAT. & T. OFFICE JUN 10 1996

FISH & RICHARDSON P.C.

225 Franklin Street
Boston, Massachusetts
02110-2804

Telephone
617 542-5070

Facsimile
617 542-8906

Web Site
www.fr.com

Date February 25, 2002

To John R. Gillon, Jr., Esq.
Senior Attorney, Petitions Branch
United States Patent and Trademark Office
Washington, DC 20231

FAX RECEIVED

FEB 25 2002

PETITIONS OFFICE

Facsimile number 10200-00700002 / (703) 308-6916

From Kurt L. Glitzenstein

Re Applicant: David J. Luneau
Issue Date : March 14, 2000
Serial No.: Continuation of 08/660,814 now U.S. Patent No. 6,038,443, Issued march 14, 2000
Filed: June 10, 1996
Title: CALLING PARTY ANNOUNCEMENT APPARATUS

Number of pages including this page 41

Message

10200-00700002

NOTE: This facsimile is intended for the addressee only and may contain privileged or confidential information. If you have received this facsimile in error, please immediately call us collect at 617 542-5070 to arrange for its return. Thank you.

FISH & RICHARDSON P.C.

225 Franklin Street
Boston, Massachusetts
02110-2804

Telephone
617 542-5070

Facsimile
617 542-8906

Web Site
www.fr.com

Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

February 25, 2002

John R. Gillon, Jr., Esq.
Senior Attorney, Petitions Branch
United States Patent and Trademark Office
Washington, DC 20231

FAX RECEIVED
FEB 25 2002
PETITIONS OFFICE

Applicant : David J. Luneau
Issue Date : March 14, 2000
Serial No. : Continuation of 08/660,814, now U.S. Patent No. 6,038,443, Issued March 14, 2000
Filed : June 10, 1996
Title : CALLING PARTY ANNOUNCEMENT APPARATUS

FR

BOSTON
DALLAS
DELAWARE
NEW YORK
SAN DIEGO
SILICON VALLEY
TWIN CITIES
WASHINGTON, DC

Dear Mr. Gillon:

Pursuant to our telephone conversations earlier today, I am enclosing the following for your consideration:

1. Petition Under 37 C.F.R. § 1.53(e)
2. A copy of the Express Mail receipt for the March 14, 2000 patent application
3. A copy of United States Patent Application Serial No. 08/660,814, as originally filed on June 10, 1996

If you have any questions, or need additional information, do not hesitate to contact me, at (617) 521-7042. Thank you for your assistance with this matter.

Very truly yours,

Kurt L. Glitzenstein

Enclosures

20304792.doc

Attorney's Docket No.: 10200-007002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David J. Luneau
Issue Date : March 14, 2000
Serial No. : Continuation of 08/660,814,[1] now U.S. Patent No. 6,038,443, Issued March 14, 2000
Filed : June 10, 1996
Title : CALLING PARTY ANNOUNCEMENT APPARATUS

Art Unit : 2746
Examiner : L. Nguyen

FAX RECEIVED
FEB 25 2002
PETITIONS OFFICE

Commissioner for Patents
Washington, D.C. 20231

Petition Under 37 C.F.R. § 1.53(e)

Applicant hereby petitions pursuant to 37 CFR § 1.53(e) to treat the March 14, 2000, request for a Continued Prosecution Application as the filing of a continuation application on that date under 37 CFR § 1.53(b).

As grounds for this petition, Applicant refers to and incorporates as set forth herein (1) the Petition Under § 1.181 filed June 2, 2000, and (2) the Status Inquiry and Petition Pursuant To 37 C.F.R. § 1.182 To Disregard Previously Filed Request For CPA filed August 24, 2001.

Summarizing briefly, the present petition concerns a patent application filed on March 14, 2000 ("the March 14, 2000 Application") that claims priority under 35 U.S.C. § 120 from

[1] This application was erroneously designated a "continuing patent application" in the filing papers, and the purpose of the present petition is to change the designation to a continuation application under Rule 53(b).

Adjustment date: 03/13/2002 AKELLEY
08/28/2001 SLUANG1 00000105 08660814
01 FC:122 -130.00 OP

03/13/2002 AKELLEY 00000001 061050 10042686
01 FC:122 130.00 OP

CERTIFICATE OF MAILING

I hereby certify under 37 CFR §1.8(a) that this correspondence is being sent by facsimile to fax number (703) 308-6916 on the date indicated below and is addressed to the John R. Gillon, Jr., Esq., Senior Attorney, Petitions Branch, United States Patent and Trademark Office, Washington, D.C. 20231.

February 25, 2002
Date of Deposit

Deborah L. Hamilton
Signature

Deborah L. Hamilton
Typed or Printed Name of Person Signing Certificate

United States Patent Application Serial No. 08/660,814 ("the '814 application").[2] The March 14, 2000 Application was filed after the issue fee had been paid (on December 13, 1999) on the '814 application, and was inadvertently and mistakenly filed as a Continued Prosecution Application (CPA) under 37 CFR § 53(d). The March 14, 2000 Application should instead have been filed as a continuation application under 37 CFR § 53(b).

For the foregoing reasons, Applicant requests the PTO to disregard the previous request for a CPA, and to treat the March 14, 2000 Application as having been filed on March 14, 2000 under 37 CFR § 53(b).

Please charge any fees, or make any credits, due in connection with this petition to Deposit Account No. 06-1050, reference 10200-007002.

Respectfully submitted,

Date: February 25, 2002

Kurt L. Glitzenstein
Reg. No. 39,686

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

20306663.doc

[2] The '814 application issued as U.S. Patent No. 6,038,443, also on March 14, 2000.

Docket No. 1090-006
Express Mail No. EL384499714US

Assistant Commissioner for patents
Box CPA
Washington, D.C. 20231

CONTINUED PROSECUTION APPLICATION REQUEST TRANSMITTAL

Transmitted herewith for filing is the patent application of David J. Luneau for: CALLING PARTY ANNOUNCEMENT APPARATUS. This application is a continued prosecution application of U.S. Patent Application Serial No. 08/660,814, filed June 10, 1996.

Papers enclosed are:
Post Card
Express Mail Certificate

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PETITIONS OFFICE

Fee Calculations:
Regular application – small entity
Total Claims – 0 Extra
Independent Claims – 0 Extra
Multiple Dependant Claims – None

The application is being filed without the filing fee. In that the specification, claims and name of the actual inventors has been provided, pursuant to 37 C.F.R. §1.53 (b), the enclosed application should be accorded to the Express Mail Certificate date under 37 C.F.R. §1.10(c).

Respectfully submitted,

William B. Ritchie
Attorney for Applicant
Reg. No. 33,118
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OFFICE OF PETITIONS

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In re Application of
Ridgeway, et al.
Application No. 09/383,908
Filed: 21 August, 2001
Attorney Docket No. 474.003

: Paper No. 11
:
: DECISION GRANTING PETITIONS
: UNDER 37 C.F.R. §§1.322 AND 1.53(e)
:

In re Application of
Ridgeway, et al.
Application No. 10/042,687
Filed: 21 August, 2001
Attorney Docket No. 474.003/DIV1

: Paper No. 4
:
:

This is a decision on the petition filed on 22 February, 2002, under 37 C.F.R. §1.182, requesting that the Continued Prosecution Application (CPA) filed on 21 August, 2001, and based on prior application No. 09/383,908 (issued as U.S. Patent No. 6,341,745 on 29 January, 2002 (the '745 patent)) be treated as a continuation application under 37 C.F.R. §1.53(b), rather than 37 C.F.R. §1.53(d), and be accorded a filing date of 21 August, 2001.

The petition is treated appropriately under 37 C.F.R. §1.322 (in Application No. 09/383,908) and §1.53(e) (in Application No. 10/042,687).

The petitions under 37 C.F.R. §1.322 (in Application No. 09/383,908) and §1.53(e) (in Application No. 10/042,687), respectively, are **GRANTED**; the petition under 37 C.F.R. §1.182 is **DISMISSED as moot**.

A review of the file of prior Application No. 09/383,908 (the '908 application) reveals that:

- a Notice of Allowance and Issue Fee Due was mailed on 21 May, 2001 (the first Notice of Allowance), and Petitioner timely paid the Issue Fee on 20 August, 2001;

- a request for a continued prosecution application (CPA) under 37 C.F.R. §1.53(d) based on prior Application No. 09/383,908 was filed--improperly under the rules because it occurred after payment of the Issue Fee--on 21 August, 2001 (the 21 August CPA);

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- in the interim, on 6 December, 2001, the Office issued a (second) Notice of Allowance and Issue Fee Due in the '908 application (the second Notice of Allowance), this time as to the claims of the 21 August CPA;
- Petitioner did not pay the Issue Fee in response to this second Notice of Allowance.
- the '908 application issued as U.S. Patent No. 6,341,745 (the '745 patent) on 29 January, 2002 (apparently as a result of applicant's payment of the issue fee on 20 August, 2001);
- however, the Office improperly and erroneously issued the '745 patent containing the claims of the 21 August CPA, rather than the previously allowed claims of the '908 application.

RESULT AS TO APPLICATION NO. 09/383,908/PATENT NO. 6,341,745

The petition as considered under 37 C.F.R. §1.322 is **GRANTED**. All fees are waived.

The file of Application No. 09/383,908/Patent No. 6,341,745 is being forwarded to the Certificate of Corrections Branch:

- to be processed, and
- for a Certificate of Correction--specifying and containing the claims as allowed on 21 May, 2001(a copy of which is enclosed herewith), for and in Application No. 09/383,908, which issued on 29 January, 2002, as Patent No. 6,341,745--to issue in due course.

RESULT AS TO APPLICATION NO. 10/042,687

Since the prior application (the '908 application) has issued as a patent, the original application papers present in the file of Application No. 09/383,908 are no longer available for processing under 37 C.F.R. §1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 21 August, 2001, have been removed from the file of application No. 09/383,908 and have been assigned application No. 10/042,687 for identification purposes. The present petition has also been placed in the file of Application No. 10/042,687. All further correspondence concerning the application deposited on 21 August, 2001, should be directed to Application No. 10/042,687, not Application No. 09/383,908.

The present petition requests that the CPA request be treated as an application under 37 C.F.R. §1.53(b).

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A petition to accept and treat an improper application filed under 37 C.F.R. §1.53(d) as a proper application under 37 C.F.R. §1.53(b) must include: (1) the $130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 C.F.R. §1.53(d).

The petition is accompanied by a specification, drawings, and a copy of a signed declaration. The submission of these application papers with the petition is understood as a representation by counsel that the specification and drawings do not contain any subject matter that would have been new matter in the prior application.

The petition under 37 C.F.R. §1.53(e) for §1.53(b)-treatment of the (improper) CPA is **granted**.

Counsel has authorized payment via credit card of the $130.00 petition fee upon filing of the petition under 37 C.F.R. §1.182, and those funds will be used instead to satisfy the fee for the petition under 37 C.F.R. §1.53(e).

Application No. 10/042,687 is being forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 C.F.R. §1.53(b), not under 37 C.F.R. 1.53(d), with a filing date of 21 August, 2001, using the application papers supplied on 22 February, 2002.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: Copies of the Notice of Allowance of 21 May, 2001, as to Application No. 09/383,908 and the allowed claims 3-21

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Paper No. 4

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OFFICE OF PETITIONS

In re Application of	:	
Carlos Correa	:	
Application No. 10/042,695	:	DECISION DISMISSING
Filed: 1 April, 2002	:	PETITION
For: A Computer Monitor Utility Assembly	:	

This is a decision on the petition filed by facsimile on 1 April, 2002, and styled under 37 CFR 1.182 which is treated as a petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of 14 February, 2001.

The petition is **dismissed**.

Petitioner alleges that the application was deposited in "Express Mail" service with the United States Postal Service (USPS) via an Express Mail drop box on 14 February, 2001. No copy of the Express Mail label, petitioner states, was ever received from the USPS, however Petitioner further states that the USPS has been unable to provide confirmation regarding this Express Mail shipment.

37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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 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.

The present petition does not establish that the application was, in fact, deposited in Express Mail service on the requested date. In the absence of the Express Mail label showing the date in or other evidence from the USPS, petitioners have not presented sufficient proof to establish, to the satisfaction of the Commissioner, that the application papers were deposited in Express Mail service on 14 February, 2001.

In future filings, petitioner is advised that, in order to preserve the benefits of filing by "Express Mail Post Office to Addressee Service" in accordance with 37 CFR 1.10, correspondence sent by Express mail to the USPTO should be deposited directly with a USPS employee at the post office. Petitioner should request that the USPS postal clerk complete the "date-in" on the Express Mail label and return a copy of the label to petitioner.

As the USPS deposit date cannot be determined for the above-identified correspondence, the application papers will be

accorded the Office receipt date of 1 April, 2001.[1] The application papers received by facsimile on 1 April, 2001, will be processed and examined with a filing date of 1 April, 2001.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for processing with a filing date of 1 April, 2001.

Telephone inquiries specific to this matter 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

[1] See 37 CFR 1.10(a).

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Paper No. 10

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OFFICE OF PETITIONS

In re Application of	:	
Carlos Correa	:	CORRECTED
Application No. 10/042,695	:	DECISION DISMISSING
Filed: 29 October, 2001	:	PETITION
For: A Computer Monitor Utility Assembly	:	

This is a corrected decision on the petition filed by facsimile on 1 April, 2002, and styled under 37 CFR 1.182 which is treated as a petition under 37 CFR 1.10(e) to accord the above-identified application a filing date of 14 February, 2001.

The petition is **dismissed**.

Petitioner alleges that a continuation-in-part application of U.S. Application No. 09/504,355 was deposited in a Express Mail package having Label No. **EM**-053-334-408-US on Wednesday, 14 February, 2001, in a designated Express Mail deposit slot at the U.S. Post Office General Mail Facility located at 2200 N.W. 72nd Avenue, Miami, Florida 33152 before the 5:00 PM closing time of the Post Office facility and well before the 9:00 PM time designated on said Mail Box as the final Express Mail pick up time for the day. As proof, petitioners have submitted a true and complete copy of the items (i.e., Certificate of Express Mailing having Express Mail Label No. **EL**-053-334-408-US, Request and Certificate under 35 USC 122(b)(2)(B)(I), transmittal cover sheet, informal drawings (15 pages), patent application (51 pages) and inventorship papers) sent along with a Certificate of Express Mailing on 14 February, 2001. The petitioner alleges that the United States Post Office was contacted to receive a receipt of the Express Mail, but was informed that their computer records only hold information for a 90 day period. The petitioners also allege that they repeatedly contacted the clerk

of the Applications Branch at the USPTO in order to identify the reason for non-receipt of the return post card or the filing receipt, prior to filing this petition.

In support of the allegation that the Express Mail package in question was deposited with the Postal Service on 14 February, 2001, the petition filed 29 October, 2001, includes a declaration signed by Peter A. Matos that he deposited the Express Mail package having Label No. EM-053-334-408-US in a designated Express Mail deposit slot at the U.S. Post Office General Mail Facility located at 2200 N.W. 72nd Avenue, Miami, Florida 33152 before the 5:00 PM closing time of the Post Office facility and well before the 9:00 PM time designated on said Mail Box as the final Express Mail pick up time for the day.

37 CFR § 1.10 provides that questions concerning the date of mailing are resolved by the date of mailing shown on the Express Mail receipt. However, only where it is shown to the satisfaction of the Commissioner that the date indicated on the Express Mail receipt is an error, the Commissioner may waive or suspend the provisions of the rule pursuant to 37 CFR 1.183. In view of all of the evidence present in the file, a conclusion that the application was deposited in Express Mail service with the U.S. Postal Service on 14 February, 2001, cannot be made. The evidence presented has been carefully considered, but is not convincing of petitioners' entitlement to a filing date of 14 February, 2001. Although the declaration by Peter Matos states that the package bore Express Mail No. **EM**-053-334-408-US, the copy of the application papers provided by petitioner bear Express Mail No. **EL**-053-334-408-US. The Office has no record that a package bearing either of these Express Mail Nos was received. Furthermore, petitioner has provided no evidence (e.g., a copy of Express Mail No. **EL**-053-334-408-US showing a date-in of 14 February, 2001) that a package bearing Express Mail No. EL-053-334-408-US was ever received by the United States Postal Service (USPS). Petitioners allege that the postcard receipt was never returned to petitioners. The Office has no record that the application papers were received on 14 February, 2001.

The application is entitled to a filing date of October 29, 2001, which is the date-in of the Express mail package (Express Mail No. EL-053-335-261-US) containing the petition and the complete application papers.

For future reference, applicants are reminded that 37 CFR 1.10 was amended on 2 December, 1996. 37 CFR 1.10(b) now reads, in

part, as follows:

> 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.

Accordingly, in the future, applicants would be wise to avoid the use of Express Mail drop or collection boxes when the filing date of the correspondence being mailed is critical.

The application will be reprocessed with a filing date of 29 October, 2001, using the duplicate copy, received 1 April, 2002, of the application papers originally filed with the petition on 29 October, 2001.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for reprocessing with a filing date of 29 October, 2001.

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

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Paper No. 3

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OFFICE OF PETITIONS

In re Application of :
Tuszynski, et al. :
Application No. 10/042,696 : DECISION ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 7206.0021-00000 :

This is a decision on the "Petition Under 37 CFR §1.53(e)," filed January 18, 2002, requesting that the attached papers be given the filing date of October 3, 2001, and that the petition fee be refunded.

The petition is **GRANTED**.

Applicants assert that, on October 3, 2001, they filed a request for Divisional Application under 37 C.F.R. §1.53(b), of pending prior application Serial No. 09/197,770. Applicants state that this request was filed with a complete copy of the prior application, including oath or declaration and drawings, as originally filed. This submission also included a substitute paper copy and computer readable form of the sequence listing, and a statement supporting the submission of the substitute sequence listing. Applicants acknowledge that the filing fee was not submitted. As of the filing of the petition, applicants had not received an Official Filing Receipt or a "Notice to File Missing Parts of Application." Having contacted the Office and been told that there was no record of this Divisional Application in the Patent Office's computer system, applicants filed the instant petition. As evidence that the application was filed, applicants submitted a copy of their return postcard receipt. Applicants also enclosed another copy of the papers they maintain were filed on October 3, 2001.

Applicants' arguments and evidence are well-taken. Upon review of the application file for the prior nonprovisional application No. 09/197,770 ('770), it was confirmed that most of the papers applicants maintain were filed in the Office on October 3, 2001 were misplaced. The papers present in the file of application '770, and bearing an OIPE receipt date-stamp of October 3, 2001, included a 77 page Specification, with at least one claim and an abstract; a Declaration and Power of Attorney; a Substitute Sequence Listing, but no Diskette; and a Statement to Support Filing and Submission in Accordance with 37 C.F.R. §§1.821-1.825 (These papers are the same as those resubmitted on instant petition). Thus, it is concluded that these papers are entitled to a filing date of October 3, 2001.

As to the other papers applicants maintain were filed, but are not present in the file of application '770, applicants' postcard receipt serves as *prima facie* evidence of their filing on October 3, 2001. See MPEP 503. The postcard is date stamped as received

in the Office of Initial Patent Examination (OIPE) on October 3, 2001; lists among the items being filed, a "Request for Divisional Application," "Drawings (22 pages)," and "Substitute Specification Listing (with Diskette);" and lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, it is concluded that applicants have shown that these additional papers were a part of the original application disclosure filed on October 3, 2001, and are entitled to a filing date of October 3, 2001.

Petitioner authorized payment of the petition fee from their Deposit Account. However, given the basis for granting the petition, no petition fee is required and none has been charged.

The application papers determined to have been filed in the Divisional Application on October 3, 2001 (and the IDS filed January 18, 2002), have been placed in their own file jacket and assigned application Serial No. 10/042,696. Any future correspondence regarding this application should reference the newly assigned serial number.

Application No. 10/042,696 is being forwarded to the Office of Initial Patent Examination (OIPE) for processing with a filing date of October 3, 2001, using the application papers received in the Office on that date and the papers[1] resubmitted on petition filed January 18, 2002. Applicants will receive appropriate notifications regarding the fees owed, 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 Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] "Request for Divisional Application," "Drawings (22 pages)," and "Substitute Specification Listing (with Diskette)

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Paper No. ____

IGOR TROITSKI
853 ARROWHEAD TRAIL
HENDERSON NV 89015

In re Application of
Troitski
Application No. 09/598,454
Filed: May 30, 2000
Docket No. N/a

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OFFICE OF PETITIONS

AND

DECISION ON PETITION

In re Application of
Troitski
Application No. 10/042,697
Filed: February 20, 2002
Docket No. n/a

This is a decision on the petition under 37 CFR 1.182 filed April 15, 2002, which is being treated as a petition under 37 CFR 1.53(e) requesting that the Continued Prosecution Application (CPA) filed under 37 CFR 1.53(d) February 20, 2001, based on prior application No. 09/598,454 be treated as an application filed under 37 CFR 1.53(b) and accorded a filing date of February 20, 2002

The petition is granted.

Since the prior application was filed on or after May 29, 2000, the provisions of 37 CFR 1.53(d) specifically exclude the prior application from CPA practice. See 37 CFR 1.53(d)(1)(I)(a). As such the improper CPA is to be treated as an RCE request. See MPEP 706.07(h)(V). However, as noted in MPEP 706.07(h)(V), under these circumstances, an applicant may file a petition under 37 CFR 1.53(e) and $130 fee and request the improper CPA be treated as an application filed under 37 CFR 1.53(b). The petition is accompanied by what is being construed as a true copy of the prior application papers.

A new file wrapper has been prepared and assigned the application No. 10/042,697. All papers filed with the petition have been placed in this new file. The filing fees paid for the CPA in the parent case have been transferred to the new application.

The reference to the prior application in the CPA papers filed on February 20, 2001, has been construed as the timely request under 35 USC 120 and 37 CFR 1.78 for benefit of the prior application. Nevertheless, applicant must present at a later time an amendment to the first line of the specification which includes a claim for benefit of the prior application.

Application No. 09/583,454 is being forwarded to the Office of Publications for further processing into a patent.

Application No. 10/042,697 is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing as an application filed under 37 CFR 1.53(b), with a filing date of February 20, 2002, using the copy of the prior application specification, claims, drawings, and the declaration filed April 15, 2002. Any questions relating to the initial processing of this application should be addressed to OIPE at (703) 308-1202. OIPE will issue a filing receipt for this application due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. ____

IGOR TROITSKI
853 ARROWHEAD TRAIL
HENDERSON NV 89015

In re Application of
Troitski
Application No. 09/613,296
Filed: July 10, 2000
Docket No. N/a

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OFFICE OF PETITIONS

AND

DECISION ON PETITION

In re Application of
Troitski
Application No. 10/042,698
Filed: December 5, 2001
Docket No. n/a

This is a decision on the petition under 37 CFR 1.182 filed April 15, 2002, which is being treated as a petition under 37 CFR 1.53(e) requesting that the Continued Prosecution Application (CPA) filed under 37 CFR 1.53(d) December 5, 2001, based on prior application No. 09/613,296 be treated as an application filed under 37 CFR 1.53(b) and accorded a filing date of December 5, 2001

The petition is granted.

A request for a CPA based on prior application No. 09/613,296 was deposited on December 5, 2001. However, the issue fee was paid in the prior application on November 30, 2001. Since the issue fee was paid before the CPA was filed, the CPA was improper. See 37 CFR 1.53(d)(1)(ii)(A). Additionally since the prior application was filed on or after May 29, 2000, the provisions of 37 CFR 1.53(d) specifically exclude the prior applicaiton from CPA practice. See 37 CFR 1.53(d)(1)(i)(a). As such the improper CPA is to be treated as an RCE request. See MPEP 706.07(h)(V). However, as noted in MPEP 706.07(h)(V), under these circumstances, an applicant may file a petition under 37 CFR 1.53(e) and $130 fee and request the improper CPA be treated as an application filed under 37 CFR 1.53(b). The petition is accompanied

by what is being construed as a true copy of the prior application papers.

A new file wrapper has been prepared and assigned the application No. 10/042,698. All papers filed with the petition,and the CPA request, have been placed in this new file. The filing fees paid for the CPA in the parent parent case have been transferred to the new application.

The reference to the prior application in the CPA papers filed on December 5, 2001, has been contrued as the timely request under 35 USC 120 and 37 CFR 1.78 for benefit of the prior application. Nevertheless, applicant must present at a later time an amendment to the first line of the specification which includes a claim for benefit of the prior application.

Application No. 09/613,296 is being forwarded to the Office of Publications for further processing into a patent.

Application No. 10/042,698 is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing as an application filed under 37 CFR 1.53(b), with a filing date of December 5, 2001, using the copy of the prior application specification, claims, drawings, and the declaration filed April 15, 2002. Any questions relating to the initial processing of this application should be addressed to OIPE at (703) 308-1202. OIPE will issue a filing receipt for this application due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
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Paper No. 3

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OFFICE OF PETITIONS

In re Application of :
Ma Fan Yung :
Application No. 10/042,702 :
Filed: July 11, 2001 : DECISION ON PETITION
Title of Invention: Zero Static Power :
Fuse Cell For Integrated Circuits :

This is a decision on the petition, filed June 21, 2002, to accord a filing date of July 11, 2001, to the above-identified application. The delay in treating this correspondence is regretted.

Application papers in the above-identified application, and application number 09/905,208, were filed on July 11, 2001, via express mail. Both applications were mailed in one envelope, inadvertently placed in one file jacket and assigned one application number, 09/905,208. Petitioner received return-receipt postcards for both applications but with the same serial number.

Petitioner files the instant correspondence requesting that the instant application papers be accorded a filing date of June 11, 2001, and assigned a separate serial number. In support of the request, the correspondence is accompanied by a copy of applicants' postcard receipt.

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 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 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." Manual of Patent Examining Procedure ("MPEP") § 503.

Accordingly, the petition is **GRANTED**.

However, the petition fee will not be refunded since special handling of this application was necessitated by the condition of the application as filed, wherein the application, as filed, was not filed in a separate envelope. "Including multiple papers in a single envelope increases the likelihood that one or more of the papers will be delayed before reaching the appropriate area." MPEP § 501.

Application No. 10/042,702 will be forwarded to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of July 11, 2001.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

Christina Tartera Donnell for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
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In re Application of :
Jennifer June Brown :
Application No. 10/042,711 : DECISION ON PETITION
Filed: December 12, 2001 : 37 CFR 1.137(b)
Attorney Docket No. ENZ-57 (CIP) (C) :

This is a decision on the petition under 37 CFR §1.137(b), filed August 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the three month shortened statutory period set in the non-final Office Action mailed March 26, 2004. No extensions of time have been obtained pursuant to the provisions of 37 CFR §1.136(a). The date of abandonment of this application is June 27, 2004. A Notice of Abandonment was mailed on October 4, 2004 to the addressee above.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR §1.137(b) in that (1) the reply (amendment) and (2) the petition fee of $750.00 have been received. 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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition. Accordingly, the reply to the non-final Office Action mailed March 26, 2004 is accepted as having been unintentionally delayed.

The application was filed on December 12, 2001. Note that a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) is required by 37 CFR 1.137(d) only for applications filed before June 8, 1995. Therefore, the terminal disclaimer included with the petition is not required, and the fee of $65.00 (small entity) has been refunded to Deposit Account No. 05-1135.

Telephone inquiries concerning this decision should be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

This matter is being referred to Technology Center Art Unit 1632 for appropriate action on the concurrently filed amendment.

Brian Hearn
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

JJGJr.:06-02

Paper 4

BEYER WEAVER & THOMAS LLP
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BERKELEY CA 94704-0778

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JUN 1 4 2002

OFFICE OF PETITIONS

In re Application of
Sasaki
Application No. 10/042,713
Filed: 26 January, 2001
Attorney Docket No. SIP1P041

DECISION ON PETITION

This is a decision on the petition under:

- 37 C.F.R. §1.10,[1] supplemented via FAX on 30 May, 2002, pursuant to a 11 February, 2001,

[1] The regulations at 37 C.F.R. §1.10 provide:

§1.10 Filing of papers and fees by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

filing, requesting that the above-identified application be accorded a filing date of 26 January, 2002; and

- under 37 C.F.R. §1.183[2] and §1.102[3] for waiver of rules and advancement out of order (a petition to make special).

Therefore:

- the petition under 37 C.F.R. §1.10(e) is **GRANTED**;[4]

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(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

[48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a) - (c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] The regulations at 37 C.F.R. §1.183 provide:

§ 1.183 Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the 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).

[47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982]

[3] The regulations at 37 C.F.R. §1.102 provide:

§1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c)or (d)of this section with a showing which, in the opinion of the Commissioner, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c) A petition to make an application special may be filed without a fee if the basis for the petition is the applicant 's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in §1.17(h).

[24 Fed. Reg. 10332, Dec. 22, 1959; paras. (a), (c), and (d), 47 Fed. Reg. 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d), 54 Fed. Reg. 6893, Feb. 15, 1989, effective Apr. 17, 1989; para. (d) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; para. (a) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (d) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

[4] Pursuant to Petitioner's authorization, the basic filing fee ($740.00), surcharge ($130.00) and the fee ($130.00) for a petition under 37 C.F.R. §1.183 and §1.102 are charged to Deposit Account 550-0388(SIP1P041). The fee for the petition under 37 C.F.R. §1.10(e) is waived. Petitioner may wish now to record with the Assignment Branch any assignment(s) associated with this application.

- the petitions under 37 C.F.R. §1.183 and §1.102 are **dismissed**: while a delay has occurred in initial processing of the application, there is no indication at this time that there are extraordinary circumstances sufficient to satisfy the requirements of 37 C.F.R. §1.183, and Petitioner has otherwise failed to satisfy the requirements of 37 C.F.R. §1.102 and MPEP §708.02 (VIII).[5]

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[5] The commentary at MPEP §708.02 (VII) provides:

VIII. SPECIAL EXAMINING PROCEDURE FOR CERTAIN NEW APPLICATIONS - ACCELERATED EXAMINATION

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 C.F.R. 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed

If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.

If applicant refuses to make an election without traverse, the application will not be further examined the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a preexamination 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 C.F.R. §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 Technology Center (TC) Special Program Examiner.

Once a request has been granted, prosecution will proceed according to the procedure set forth below; there is no provision for "withdrawal" from this special status.

The special examining procedure of VIII (accelerated examination) involves the following procedures:

(A) The new application, having been granted special status as a result of compliance with the requirements set out above will be taken up by the examiner before all other categories of applications except those clearly in condition for allowance and those with set time limits, such as examiner's answers, etc., and will be given a complete first action which will include *all* essential matters of merit as to all claims. The examiner's search will be restricted to the *subject matter encompassed by the claims*. A first action rejection will set a 3-month shortened period for reply.

(B) During the 3-month period for reply, applicant is encouraged to arrange for an interview with the examiner in order to resolve, with finality, as many issues as possible. In order to afford the examiner time for reflective consideration before the interview, applicant or his or her representative should cause to be placed in the hands of the examiner at least one working day prior to the interview, a copy (clearly denoted as such) of the amendment that he or she proposes to file in response to the examiner's action. Such a paper will not become a part of the file, but will form a basis for discussion at the interview.

(C) Subsequent to the interview, or responsive to the examiner's first action if no interview was had, applicant will file the "record" reply. The reply at this stage, to be proper, must be restricted to the rejections, objections, and requirements made. Any amendment which would require broadening the search field will be treated as an improper reply.

(D) The examiner will, within 1 month from the date of receipt of applicant's formal reply, take up the application for final disposition. This disposition will constitute either a final action which terminates with the setting of a 3-month period for reply, or a notice of allowance. The examiner's reply to any amendment submitted after final rejection should be prompt and by way of form PTOL-303, by passing the application to issue, or by an examiner's answer should applicant choose to file an appeal brief at this time. The use of these forms is not intended to open the door to further prosecution. Of course, where relatively minor issues or deficiencies might be easily resolved, the examiner may use the telephone to inform the applicant of such.

(E) A personal interview after a final Office action will not be permitted unless requested by the examiner. However, telephonic interviews will be permitted where appropriate for the purpose of correcting any minor outstanding matters.

After allowance, these applications are given top priority for printing. See MPEP §1309.

Petitioner alleges that the application was:

- deposited in US Postal Service (USPS) Express Mail service on Friday, 26 January, 2001;
- received at the Office on Monday, 29 January, 2001;
- mis-identified by the Office as Application No. 09/771,112; and
- thereafter misplaced by the Office.

In support of the allegation of:

- deposit: Petitioner submits a copy of the Express Mail Label EL631005145US (which number matches that on the application transmittal) evidencing a USPS "date in" and also hand-stamped as 26 January, 2001;
- receipt: Petitioner submits a copy of a FAX transmission on USPS letterhead documenting receipt by the Office of the above-referenced Express Mail packet from the USPS at 7:27 a.m. on Monday, 29 January, 2001;
- mis-identification by the Office as Application No. 09/771,112 with a 26 January, 2001, filing date: Petitioner submits a copy of the receipt card bearing the above-referenced Express Mail number and describing the instant application as consisting of:

  1. Patent Application Transmittal
  2. (48) Pages of Specification, Claims and Abstract
  3. (12) Sheets of Formal Drawings

  date-stamped by the Office and bearing Application No. 09/771,112;

- misplacement by the Office: Petitioner attests to having awaited receipt of a Notice of Missing Parts addressing the requirement for submission of a completed oath or declaration and filing fees that were not included in the 26 January, 2001, mailing. When no Notice was received, Petitioner's office inquired and learned that the Application No. 09/771,112 was identified another application and not with the instant application.[6]

Petitioner submitted the instant petition and above-described documents, along with a copy of the entire original application, including: the Patent Application Transmittal, (48) Pages of Specification, Claims and Abstract, and (12) Sheets of Formal Drawings, as alleged to have been

[6] A review of Office records confirms that the Application No. 09/771,112 is identified with a wholly-unrelated application.

originally filed.

Further, registered practitioner Steve D. Beyer (Registration No. 31,234) declares the accuracy of this information as submitted by him.

A review of the above-described receipt card reflects the Office receipt of documents, *inter alia*: 1. Patent Application Transmittal, 2. (48) Pages of Specification, Claims and Abstract, 3. (12) Sheets of Formal Drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that "Patent Application Transmittal, (48) Pages of Specification, Claims and Abstract, and (12) Sheets of Formal Drawings" were filed on 26 January, 2001, and that application was subsequently misplaced in the Office.

Accordingly:

- the petition under 37 C.F.R. §1.10(e) is **granted**;
- the petitions under 37 C.F.R. §1.183 and §1.102 are **dismissed** for cause and will not be reconsidered.

Petitioner is instructed that hereafter the correct application number to be used in referencing the instant application is Application No. 10/042,713 (and not 09/771,112).

This application is being forwarded to the Office of Initial Patent Examination for further processing in instant Application No. 10/042,713 and issueance of a filing receipt with a filing date of 26 January 2001, using Patent Application Transmittal, (48) Pages of Specification, Claims and Abstract, and (12) Sheets of Formal Drawings filed on 15 February, 2002, and resubmitted via FAX on 30 May, 2002, with an indication on the PALM bib data sheet that (48) Pages of Specification, Claims and Abstract, and (12) Sheets of Formal Drawings were present on filing. Thereafter, the application file will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 12

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of
Ryusuke Sasaki
Application No. 10/042,713
Filed: January 26, 2001
For: **METHODS AND APPARATUS FOR TRANSFORMING THREE-DIMENSIONAL OBJECTS IN VIDEO GAMES**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment pursuant to 37 CFR §1.181(a), filed February 27, 2004 and resubmitted on May 17, 2004. No fee is required.

The petition is **DENIED.**

This application was held abandoned for failure to timely submit a response to the final Office action mailed July 18, 2003. A Notice of Abandonment was mailed February 24, 2004.

In the petition, the has Petitioner provided a statement that the final Office action was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

Pursuant to MPEP § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating:

(a) that the Office communication was not received by the practitioner; and

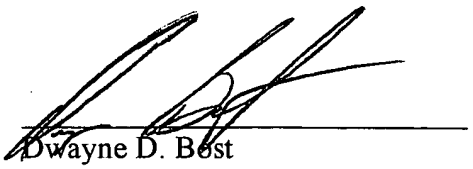
(b) personally attesting to a search of the file jacket and docket records indicates that the Office communication was not received;

In addition, the petition must include 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 showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner states within the petition filed on February 27, 2004 and again on May 17, 2004 that the final Office action was not received and also references a docket log within their petition. However, the petition does not comply with the requirements of a successful petition to withdraw the holding of abandonment due to the lack of a statement from the Practitioner attesting to a personal search of the file jacket and docket records and indicating that the office communication was not received.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the statement from the Practitioner as outlined above. The file is being forwarded to the file repository.



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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APR 11 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY CA 94704-0778

In re Application of
Ryusuke Sasaki
Application No. 10/042,713
Filed: January 26, 2001
For: **METHODS AND APPARATUS FOR TRANSFORMING THREE-DIMENSIONAL OBJECTS IN VIDEO GAMES**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment pursuant to 37 CFR §1.181(a), filed February 27, 2004, resubmitted on May 17, 2004 and supplemented on September 17, 2004. No fee is required.

This application was held abandoned for failure to timely submit a response to the final Office action mailed July 18, 2003. A Notice of Abandonment was mailed February 24, 2004.

Pursuant to MPEP § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating:

(a) that the Office communication was not received by the practitioner; and

(b) personally attesting to a search of the file jacket and docket records indicates that the Office communication was not received;

In addition, the petition must include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has satisfied the requirements set forth above. Accordingly, the petition is **GRANTED.**

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technology Center Technical Support Staff for re-mailing the final Office communication of July 18, 2003.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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John Pietrangelo, Patent Agent
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OFFICE OF PETITIONS

In re Application of
Prough et al.
Filed: July 15, 2002
Application No. 10/195,230
Attorney Docket No. 2065.005A
For: SYSTEM AND METHOD FOR IMPROVING THE MOVEMENT AND DISCHARGE OF MATERIAL FROM VESSELS

In re Application of
Prough et al.
Filed: July 16, 2002
Application No. 10/042,718
Attorney Docket No. 2065.005A
For: SYSTEM AND METHOD FOR IMPROVING THE MOVEMENT AND DISCHARGE OF MATERIAL FROM VESSELS

: DECISION GRANTING PETITION

This is a decision on the petition filed November 19, 2002, requesting that the specification including claims and drawings submitted to Licensing and Review (L & R) on July 16, 2002, and granted foreign filing license No. 599,211 on July 17, 2002, be assigned a new application number and accorded a filing date of July 16, 2002. This petition is properly being treated as a petition under 37 CFR 1.182.

On September 24, 2002, petitioners submitted a petition under 37 CFR 1.53(e), alleging that application No. 10/195,230 contained the wrong specification and requesting that the "correct" specification be entered and accorded the filing date of July 15, 2002.

On November 1, 2002, in response to a telephone conversation with Terry J. Dey of the Office of Patent Legal Administration, petitioners submitted a letter confirming that the subject application was submitted to Licensing and Review on July 16, 2002, and was granted foreign filing license No. 599,211.

On November 15, 2002, in a telephone conversation with Ms. Dey and Fred A. Silverberg of the Office of Patent Legal Administration, petitioners were informed that the Office would be willing to consider a new petition requesting that the documents submitted to Licensing and Review on July 16, 2002, be treated as new application papers and accorded a filing date of July 16, 2002.

On November 19, 2002, the present petition was filed. Petitioners request that the specification including claims and drawings submitted to Licensing and Review on July 16, 2002, be assigned a new application number and accorded a filing date of July 16, 2002.

A review of the papers submitted to Licensing and Review on July 16, 2002, reveals that a thirty-three (33) page specification including claims, titled "System and Method for Improving the Movement and Discharge of Material From Vessels," three sheets of drawings, and a copy of a declaration were received.

Since the papers submitted to the Office on July 16, 2002 are complete for filing date purposes, on petition, these papers will be treated as a new application and accorded a filing date of July 16, 2002.

Accordingly, the petition is granted.

The application papers have been assigned application No. 10/042,718 and accorded a filing date of July 16, 2002. All future correspondence concerning this application should be directed to this application number.

Since the original application papers submitted to Licensing and Review have been placed in application No. 10/042,718, copies of these application papers will be retained in Licensing and Review with the Petition for Expedited Foreign Filing License.

Filing fees in the amount of $799.00 will be charged to deposit account No. 08-1935. The $130.00 petition fee has been charged to counsel's deposit account.

After mailing of this decision, application No. 10/195,230 will be retained in the Office of Patent Legal Administration to await receipt of a letter withdrawing the petition filed September 24,

2002 in application No. 10/195,230, as indicated in the November 19, 2002 petition. Application No. 10/042,718 will be forwarded to the Office of Initial Patent Examination (OIPE) for processing with a filing date of July 16, 2002, using the application papers submitted on that date.

Telephone inquiries concerning this communication should be directed to Terry J. Dey at (703) 308-1201.

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 3

Pennie & Edmonds LLP
1155 Avenue of the Americas
New York, NY 10036-2711

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JUN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Al-Kuran et al. :
Application No. 10/042,720 : DECISION GRANTING PETITION
Filed: August 22, 2001 :
Attorney Docket No. 7174-134-999 :

This is a decision on the petition filed February 8, 2002, requesting that an application of Al-Kuran et al., entitled "MICROWAVE DC TO DC CONVERTER" (attorney docket No.7174-134-999) be accorded a filing date of August 22, 2001. The Office sincerely apologizes for the delay in responding to the present petition and any inconvenience caused to petitioners by this delay.

Petitioners allege that the original application papers were deposited in Express Mail service on August 22, 2001, in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioners have supplied a copy of the original application papers showing the Express Mail label No.EL 501641256 US thereon and a copy of the Express Mail label No. EL 501641256 US showing a "date-in" of August 22, 2001. The petition included a statement that satisfactorily establishes that the copies of the correspondence supplied with the petition are true copies of the originally mailed correspondence.

The petition to accord the application a filing date of August 22, 2001, is granted.

Since the original application papers cannot be located in the Office, the duplicate papers received February 8, 2002, will be used to process the application. The application has been assigned application No. 10/042,720.

Applicants should notify this office if the original papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

After mailing of this decision, the $790.00 filing fee will be charged to counsel's deposit account No.16-1150 as authorized in the petition.

Thereafter, the application will be forwarded to Initial Patent Examination Division for further processing with a filing date of August 22, 2001, using the copy of the application papers supplied on February 8, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. ____

OLIFF & BERRIDGE
P O BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Dennis Stamires et all :
Application No. 09/246,691 :
Filed: February 9, 1999 :
Attorney Docket No. WPB 40864B :

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OFFICE OF PETITIONS

AND

DECISION ON PETITION

In re Application of :
Dennis Stamires et al :
Application No. 10/042,730 :
Filed: March 15, 2002 :
Attorney Docket No. WPB 40864B :

This is a decision on the petition under 37 CFR 1.53(e), filed July 1, 2002, to convert the continued prosecution application request under 37 CFR 1.53(d) filed in the U.S. Patent and Trademark Office (USPTO) on March 15, 2002 to a continuing application under 37 CFR 1.53(b) and to accord the continuing application a filing date of March 15, 2002.

The petition is **granted**.

A request for a CPA based on prior application No. 09/246,691 was deposited on March 15, 2002, along with a petition to withdraw from issue under 37 CFR 1.313(c)(3). The issue fee was paid in the prior application on February 14, 2002. Unfortunately, the petition and the file of the prior application were not received by the appropriate official within sufficient time to avert issuance of the prior application and the prior application was patented on April 23, 2002. Accordingly, the petition to withdraw from issue filed on March 15, 2002 was dismissed as moot in a decision mailed May 20, 2002

Since the prior application has issued as a patent, the CPA request cannot be processed as a proper CPA.

The present petition requests that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b). The petition is accompanied by what applicant claims as a copy of original Application No. 09/246,691 (specification, claims, and drawings), along with a copy of a signed Declaration and Power of Attorney, and a preliminary amendment.

The instant continuation application under 37 CFR 1.53(b) filed on March 15, 2002 has been assigned application No. 10/042,730. All further communications regarding this application should be directed to Application No. 10/042,730.

The CPA papers and IDS filed in the parent application have been placed in Application No. 10/042,730.

The $740 filing fee paid in the CPA on March 15, 2002 will be applied towards the filing fee for Application No. 10/042,730. The $130 petition fee submitted with the petition on July 1, 2002 is unnecessary and will be credited to petitioner's Deposit Account No. 15-0461.

Application No. 09/246,691 is being forwarded to Files Repository.

Application No. 10/042,730 is being forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), not as a CPA under 37 CFR 1.53(d), with a filing date of March 15, 2002, using the copy of the specification, claims, drawings and declaration supplied on March 15, 2002. No surcharge is required in Application No. 10/042,730

Any questions concerning this decision on petition may be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Stuart T. Langley
HOGAN & HARTSON LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, Colorado 80202

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OFFICE OF PETITIONS

In re Application of
John Bullock et al.
Application No. 10/042,731
Filed: December 21, 2000
Attorney Docket No.: IQN0001

: DECISION GRANTING
: PETITION

This is a decision on the paper styled "Petition to Reset Filing Date Pursuant to 37 CFR 1.10(e)" filed December 12, 2001 originally in application 09/855,767[1] and the papers filed July 31, 2002 which are being construed collectively as a petition requesting that a patent application of John Bullock et al. (attorney docket No. IQN0001) be accorded a filing date of December 21, 2000.

Petitioners allege that the original application papers were deposited in Express Mail service in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioners have supplied a copy of the original application papers showing the Express Mail label No. EL 661402809US thereon. The petition is accompanied by a copy of Express Mail receipt No. EL 661402809US (the same Express Mail number found on the original application papers) showing a date-in of December 21, 2000.

Based on the evidence above, the petition to accord the application a filing date of December 21, 2000 is granted. No petition fee is due. The fee of $130 charged in application No. 09/855,767 will be refund.

The original application papers cannot be located. The petition and duplicate papers received December 12, 2001 have been placed in a new file wrapper and assigned application No. 10/042,731. The duplicate papers will be used for examination purposes.

A review of the copy of the transmittal letter submitted December 21, 2000 reveals that it listed a "Request and Certification under 35 U.S.C. 122(b)(2)(B)(I)" (PTO/SB/35 or its equivalent), however a copy of such paper was not among the papers submitted on December 12, 2001. On

[1] Petitioners filed the petition to reset the filing date in application No. 09/855,767. In a phone interview with the Stuart Langley, applicant's representative, in March 2002, it was revealed that the petition was intended to be a 37 C.F.R. 1.10(e) petition to grant an application number and filing date and such written intention is set forth in the papers filed July 31, 2002.

July 31, 2002, petitioners submitted a paper entitled "Transmittal of Supplementary Petition to Obtain Filing Date Pursuant to 37 CFR 1.10(e)" accompanied by a copy of PTO/SB/35(11/00) dated December 21, 2000. Petitioners state that the PTO/SB/35 form was part of the original papers submitted on December 21, 2000 and that the copy being submitted is a true copy of the original PTO/SB/35 submitted on December 21, 2000.

Applicants should notify this office if the original application papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

The $355.00 small entity application filing fee will be charged to applicant's deposit account No. 50-1123 after mailing of this decision.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 21, 2000, using the copy of the application papers supplied December 12, 2001 and July 31, 2002.

Any inquiries related to this decision should be directed to Legal Advisor Darnell M. Jayne at (703) 305-3310.

Eugenia Jones

Eugenia Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

dmj

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/20/02 | 2 Serial/Patent # 09/855767

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition			$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 50--1123

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

1.10(e) petition

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Darnell JAYNE TITLE: Legal Advisor

SIGNATURE: DJayne PHONE: (703) 305-3312

OFFICE: OPLA

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 11/21/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Paper No. 2

FOLEY & LARDNER
FIRSTAR CENTER
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MILWAUKEE, WI 53202-5367

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OFFICE OF PETITIONS

In re Application of
Sander, et al.
Application No. 09/515,875
Filed: February 29, 2000
Title: MINIMIZING TRANSISTOR SIZE
IN INTEGRATED CIRCUITS

DECISION ON
PETITION

In re Application of
Sander, et al.
Application No. 10/042,732
Filed: April 25, 2001
Title: MINIMIZING TRANSISTOR SIZE
IN INTEGRATED CIRCUITS

This is a decision on the petition filed May 17, 2002, requesting that a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/515,875 be treated as an application filed under 37 CFR 1.53(b) and be accorded a filing date of April 25, 2001.

The original transmittal letter for the CPA request cannot be located in the file of prior application No. 09/515,875. So, preliminarily it must be shown that the application under § 1.53(d) was filed on April 25, 2001. To this end, the petition includes a copy of applicants' postcard receipt acknowledging receipt by the Office on April 25, 2001, of a patent application, 5 sheets of formal drawings, a check for $710, a preliminary amendment, and a certification under 35 USC 122. This postcard receipt is not sufficiently detailed to serve as *prima facie* evidence of the filing of a CPA. See MPEP 503. Nonetheless, USPTO electronic records confirm both entry of a request for a CPA and payment of the CPA filing fee of $710.00 in prior application No. 09/515,875 on April 25, 2001. The totality of the evidence is persuasive that the request for a CPA was filed on April 25, 2001, and subsequently misplaced in the USPTO.

In regards to the request for conversion of the CPA, USPTO records show that the issue fee was paid in the prior application on April 20, 2001. A CPA must be filed before the payment of the issue fee on the prior application. See 37 CFR 1.53(d). Since the issue fee was paid on the prior application before the CPA request was filed and the prior application has now issued as a patent, the CPA request cannot be processed as a proper CPA.

The present petition requests that the CPA request be treated as an application filed under 37 CFR 1.53(b).

A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee; and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed May 17, 2002, is accompanied by a check for the petition fee, and a copy of the prior complete application as originally filed including the specification and drawings.

Accordingly, the petition is **GRANTED**.

The continuation application under 37 CFR 1.53(b) has been assigned application No. 10/042,732. All future correspondence concerning the continuing application filed on April 25, 2001, should be directed to application number 10/042,732, not to application No. 09/515,875.

The $710 filing fee paid on April 25, 2001, for the improper § 1.53(d) filing in application No. 09/515,875, has been reallocated to satisfy the $710 filing fee for continuation application No. 10/042,732.

Application No. 10/042,732 is being forwarded to the Office of Initial Patent Examination for processing as a continuation application under § 1.53(b), **not as a CPA under 37 CFR 1.53(d), with a filing date of April 25, 2001**, using the copy of the application papers supplied on May 17, 2002.

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

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Paper No. 3

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304

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OFFICE OF PETITIONS

In re Application of
Priem et al.
Application No. 10/042,733
Filed: October 25, 2000
Attorney Docket No. 18659.15

: DECISION GRANTING PETITION

This is a decision on the petition filed May 31, 2002, requesting that an application of Curtis Priem et al. entitled "METHOD AND APPARATUS FOR PROVIDING A VERTEX CACHE" (attorney docket No.18659.15) be accorded a filing date of October 25, 2000.

Petitioners allege that the original application papers were deposited in Express Mail service on October 25, 2000, in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioners have supplied a copy of the original application papers showing the Express Mail label No. EL654882526US thereon and a copy of the Express Mail label No. EL654882526US showing a "date-in" of October 25, 2000. The papers filed on May 31, 2002, also included a copy of a postcard receipt acknowledging the filing in the Office on October 25, 2000, of, inter alia, a transmittal letter, 20 pages of specification, 4 sheets of drawings, a preliminary amendment, a check for $710.00 for the filing fee, and a copy of a declaration.

The original papers identified on the postcard receipt have now been located in the Office. The original papers were erroneously placed in prior application No. 09/053,998.

The petition to accord the application a filing date of October 25, 2000, is granted. No petition fee is required and none has been charged.

The original application papers contain stamp markings made by the Office on multiple pages of the specification and drawings which make some of the text illegible. Accordingly, the duplicate papers received May 31, 2002, will be used to process the application. The application has been assigned application No. 10/042,733. The copy of the application papers submitted by facsimile on March 27, 2001, have been placed in application No. 10/042,733 but will not be entered or used during the processing and examination of the application.

After mailing of this decision, the $710.00 filing fee that was applied to application No. 09/053,998 will be applied to application No. 10/042,733.

Thereafter, the application will be forwarded to Initial Patent Examination Division for further processing with a filing date of October 25, 2000, using the copy of the application papers supplied on May 31, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Washington, D.C. 20231
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Paper No. 3

WILLIAM H. DIPPERT, ESQ.
REED SMITH LLP
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of	:
Liat Tsoref et al	:DECISION GRANTING PETITION
Application No. 10/042,735	:FOR FILING DATE
Filed: October 25, 2001	:
Attorney Docket No. 23538.38	:

This is a decision on the petition filed August 12, 2002, requesting that a nonprovisional application of Liat Tsoref and Dov Furman, entitled "BONE AGE ASSESSMENT USING ULTRASOUND," filed pursuant to the provisions of 35 USC 111(a) and 37 CFR 1.53(b) be accorded a filing date of October 25, 2001. The petition is being treated as a petition under 37 CFR 1.10(e).

Petitioner asserts that the original nonprovisional application papers were deposited in Express Mail service on October 25, 2001, in accordance with the procedures set forth in 37 CFR 1.10 and that the application is entitled to the date of deposit in Express Mail service as the filing date. In support, petitioner has supplied a copy of the original application papers showing the Express Mail label No. EL692775195US thereon and displaying the October 25, 2001 date applied thereon by the United States Postal Service.

In view of the above, the petition is granted.

This nonprovisional application has been assigned nonprovisional Application No. 10/042,735. The copy of the nonprovisional application papers supplied on October 25, 2001, will be used to process the application. All future correspondence regarding this application should be directed to Application No. 10/042,735.

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Applicants should notify this office if the original nonprovisional papers are subsequently discovered in the USPTO so that the present duplicate file can be merged with the original papers.

It is noted that the copy of the application papers originally submitted authorized the charging of the filing fees due in this application. Accordingly, filing fees totaling $739 ($370 filing fee and $369 excess claim fee) will be charged to petitioner's Deposit Account No. 03-3419 as authorized.

It is noted that the address contained in the originally submitted application papers differs from the address on the instant petition. The address noted on the petition will be used as the correspondence address for this application. However, if this is incorrect, petitioner should promptly inform the USPTO of the proper mailing address.

The instant nonprovisional application, Application No. 10/042,735, is being forwarded to the Initial Patent Examination Division for further processing under 37 CFR 1.53(b) with a filing date of October 25, 2001, using the copy of the nonprovisional application papers supplied on August 12, 2002. A filing receipt will be mailed in due course by the Office of Initial Patent Examination Division.

Any questions concerning this decision on petition should be directed to Frances Hicks at (703) 305-8680.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

JAMES L. FARMER
511 E. CONCORDA DRIVE
TEMPE, AZ 85282

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OFFICE OF PETITIONS

In re Application of :
Medhat Osman :
Application No. 10/042,737 : DECISION ON PETITION
Deposited: August 29, 2002 :
Re: Square Ultra Thrust Reverser :

This is in response to the "Petition to Accord a Filing Date under 37 CFR 1.53" filed August 29, 2002, requesting that application papers previously filed but not of record in the Office be accorded a filing date of March 27, 2001[1]. Alternatively, petitioner requests that the copy of the non-provisional application and revised claim set submitted on petition be considered as a new application filed as of the Express Mail date of the petition, August 29, 2002.

Petitioner maintains that a non-provisional application was filed on March 27, 2001. In support thereof, petitioner submitted a copy of a certified mail receipt and of the first page of the non-provisional application as purportedly filed and a copy of the application as petitioner maintains it was originally filed on March 27, 2001.

35 U.S.C. 111(a)(4), provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

Correspondence received in the Patent and Trademark Office is stamped with the date of receipt, except ... [c]orrespondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service. See 37 CFR 1.6. The filing of a paper for the purposes of entitlement to a filing date is not entitled to benefit of a certificate of mailing by First Class mail. See 37 CFR 1.8(a)(2)(i)(A)[2]. Thus, to establish that a paper not entitled

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[1] The petition was originally filed by facsimile transmission on August 20, 2002, without the petition fee, and accordingly, could not be considered on the merits. Prior to the mailing of a letter to this effect, the instant petition (and fee) were received in the Office of Petitions.

[2] Correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the certificate of mailing or transmission procedure, set forth in 37 CFR 1.8 is followed, except in certain enumerated instances.

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to the benefit of a certificate of mailing under 37 CFR 1.8(a) was filed in the USPTO, applicants must have used Express Mail and complied with the provisions of 37 CFR 1.10, or have a postcard receipt establishing that the paper was actually received in the USPTO. Other than in these circumstances, the rules do not provide a mechanism for establishing that such a paper was filed in the USPTO.

Applicant has not shown that application papers purportedly filed on March 27, 2001, but never received in the Office, were filed in compliance with 37 CFR 1.10, or actually received on March 27, 2001 as evidenced by a return postcard receipt[3]. The certified mail receipt is not a substitute for a return postcard receipt. The certified mail receipt does not serve as *prima facie* evidence of the filing of specific papers in the Office. Unlike the postcard receipt, this receipt is not reviewed by the Office and is not stamped by the Office upon verification that the filing contains the items listed on the receipt (In fact, the certified mail receipt does not itemize what is being mailed).

In view thereof, the petition must be **DISMISSED** to the extent that petitioner requests a filing date of March 27, 2001.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 C.F.R. § 1.181(f). This time period may not be extended pursuant to 37 C.F.R. §1.136(a) or (b).

The applicant papers deposited in the Office on August 29, 2002[4], and assigned application No. 10/042,737 are being forwarded to the Office of Initial Patent Examination for processing as a new application (No. 10/042,737) filed under 37 C.F.R. § 1.53(b).

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this matter should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions

---

[3] A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See MPEP 503.

[4] Those papers include: a "Revised Claim Set for Non-Provisional Patent Application," listing 36 claims (4 pages); a copy of Provisional Application No. 60/192,337, in a format similar to an issued patent, including 14 sheets of drawings Figs. 1-32 in non-sequential order; a copy of the filing receipt for the provisional application (2 pages); a copy of a Notice to File Missing Parts of Provisional Application mailed May 26, 2000 (1 page); a paper entitled Patent Disclosure dated March 12, 2000 (3 pages); and a Statement Claiming Small Entity Status (1 page).

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Alexandria, VA 22313-1450
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Paper No.

SUE Z. SHAPER, P.C.
1800 WEST LOOP SOUTH
SUITE 1450
HOUSTON, TX 77027

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OFFICE OF PETITIONS

In re Application of :
Medhat Osman :
Application No. 10/042,737 : DECISION ON PETITION
Deposited: August 29, 2002 :
Re: Square Ultra Thrust Reverser :

This is a decision on the "PETITION TO ACCORD A FILING DATE" filed February 17, 2005. Petitioner requests that the above-identified application be accorded a filing date of August 29, 2002.

On August 29, 2002, applicant filed a petition requesting that the papers submitted therewith either be accorded a filing date of March 27, 2001 or August 29, 2002. By decision mailed March 4, 2003, the above-identified application was accorded a filing date of August 29, 2002 and forwarded to the Office of Initial Patent Examination for processing. The decision noted that the application included: a "Revised Claim Set for Non-Provisional Patent Application," listing 36 claims (4 pages); a copy of Provisional Application No. 60/192,337, in a format similar to an issued patent, including 14 sheets of drawings Figs. 1-32 in non-sequential order; a copy of the filing receipt for the provisional application (2 pages); a copy of a Notice to File Missing Parts of Provisional Application mailed May 26, 2000 (1 page); a paper entitled Patent Disclosure dated March 12, 2000 (3 pages); and a Statement Claiming Small Entity Status (1 page).

On October 4, 2004, the Office mailed a NOTICE TO FILE MISSING PARTS OF APPLICATION, advising applicant that the application had been accorded a filing date of August 29, 2002; however, the statutory basic filing fee and an oath or declaration were

missing. In addition, a substitute specification and an abstract were required. On January 4, 2005, applicant responded with the missing items.

However, on January 24, 2005, the Office mailed a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION, advising applicant that the application had not been accorded a filing date because the application was deposited without drawings. In response, applicant filed the instant petition, citing the aforementioned application history.

It is clear from the record of this case that the application as filed on August 29, 2002 is entitled to a filing date of August 29, 2002. The record further reveals that the substitute specification filed January 4, 2005, did not include drawings.

The petition is **GRANTED**.

Given the basis for granting this petition, the petition fee of $400 ($130 received by check and $270 charged to Deposit Account) has been refunded to Deposit Account No. 50-1753, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has thereby been forwarded to OIPE for **correction of the filing date to August 29, 2002**, using the application papers received in the Office on that date, and the 14 sheets of drawings Figs. 1-32 shown in the copy of provisional application No. 60/192,337 re-supplied on petition filed February 17, 2005; and **indication in Office records that 14 sheets of drawings were present on filing**.

Applicant will receive appropriate notifications and other information in due course from OIPE.

Receipt of the change of correspondence address filed February 11, 2005, is acknowledged and made of record.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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WASHINGTON, D.C. 20231
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Paper No. 17

Nathan Boatner
PMB 692
7095 Hollywood Boulevard
Los Angeles, California 90028

In re Application of :
George KRIKORIAN et al. :
Application No. 09/490,948 :
Filed: January 24, 2000 :
Attorney Docket No. 50064 :

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OFFICE OF PETITIONS

AND

DECISION ON PETITIONS
37 CFR §§1.182 and 1.47
& NOTICE TO FILE
MISSING PARTS -
FILING DATE GRANTED

In re Application of :
George KRIKORIAN et al. :
Application No. 10/042,740 :
Filed: March 1, 2001 :
Attorney Docket No. 50064 :

This is a decision on the petition filed under 37 CFR 1.182 on January 16, 2002 in application serial number 09/490,948, to convert an improper Continued Prosecution Application to a continuing application filed under 37 CFR 1.53(b) having a filing date of March 1, 2001. This is also a decision on the petition under 37 CFR 1.47 filed January 16, 2002.

The petition under 37 CFR 1.182 is **granted.**

The petition under 37 CFR 1.47 is **granted.**

Petitioner is given TWO MONTHS from the date of this decision within which to file a newly executed oath specifically referencing application serial number 10/042,740 and the late oath or declaration surcharge of $130, as set forth in 37 CFR 1.16(e), in order to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

Application Serial Number 09/490,948 is not a complete application within the meaning of 37 CFR 1.51(b) because the oath or declaration lacks the signature of a named inventor and because the application lacks status under 37 CFR 1.47. Therefore, the request for Continued Prosecution Application (CPA) under 37 CFR 1.53(d)(1)(I)(A) is improper inasmuch as the CPA request requires, *inter alia*, that the prior non-provisional application be complete within the meaning of 37 CFR 1.51(b).

Therefore, the true copy of the '948 application which accompanies the instant petition has been converted to continuing application serial number 10/042,740 filed under 37 CFR 1.53(b) having a filing date of March 1, 2002, that is, the day the CPA request intended for the '948 application was received in the Office. The CPA papers have been removed from the '948 application file and placed in the '740 application, however they will remain unprocessed.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the exhibits submitted with the declaration of Mr. Nathan Boatner accompanying the instant petition. Notice of the filing of this application will

also be published in the Official Gazette.

Petitioner is advised that the oath filed with the instant petition listing ONLY Messrs. Krikorian and Zeitlian as co-inventors cannot be accepted as part of continuing application 10/042,740. The oath makes reference to, and therefore executes, the specification of parent application 09/490,948. Thus, while the continuing application has been accorded a filing date, it is still regarded as incomplete as lacking a proper oath complying with 37 CFR 1.63.

The '948 application file will be forwarded to the Office Initial Patent Examination where it will be processed as an abandoned, incomplete application. All further correspondence should be directed to application serial number 10/042,740.

Continuing application 10/042,740 will be forwarded to the Office Initial Patent Examination where it will be processed as a new, continuing application having Rule 1.47 status. ***Petitioner is reminded that all further correspondence should be directed to application serial number 10/042,740.***

Telephone inquiries related to this decision should be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 3

Robert Brouillette
BROUILLETTE KOSIE
1100 Rene-Levesque Blvd. West
25th Floor
Montreal, Quebec
Canada H3B 5C9

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DEC 16 2002

OFFICE OF PETITIONS

In re Application of :
Yves St-Pierre :
Application No. 10/042,748 : DECISION GRANTING PETITION
Application Filed: January 22, 2002 :
Attorney Docket No. 04104-017-US-02 :

This is a decision on the petition filed September 27, 2002, requesting that an application of Yves St-Pierre entitled "Track with clips in a non-sequential arrangement" (attorney docket No. 04104-017-US-02) be accorded a filing date of January 22, 2002.

Petitioner alleges that the original application papers were hand carried to the U.S. Patent and Trademark Office (Office) on January 22, 2002 and that the application is entitled to a filing date of January 22, 2002. In support, the petition is accompanied by, inter alia, an affidavit of Sylvie Bergeron and a copy of applicant's postcard receipt bearing attorney docket no. 04104-017-US-02 and acknowledging receipt in the Office on January 22, 2002, of, inter alia, specification (including claims) pages 1 to 9, an abstract page, and drawing figures 1 and 2. Petitioner has also supplied a copy of the original application papers purportedly filed on January 22, 2002.

The original application papers cannot be located in the Office. However, in view of the evidence presented, it is concluded that the application was filed in the Office on January 22, 2002, and later misplaced.

The petition to accord the application a filing date of January 22, 2002, is granted. No petition fee is required and none has been paid.

Since the original application papers cannot be located in the Office, the duplicate papers received September 27, 2002, will be used to process the application. The application has been assigned application No. 10/042,748.

Applicant should notify this office if the original papers are subsequently discovered in the Office so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

After mailing of this decision, the $740.00 filing fee will be charged to counsel's deposit account No. 02-3980 as authorized in the transmittal letter.

Thereafter, the application will be forwarded to Initial Patent Examination Division for further processing with a filing date of January 22, 2002, using the copy of the application papers supplied on September 27, 2002. Initial Patent Examination Division will mail a Notice to File Missing Parts requiring an oath or declaration under 37 CFR 1.63 and the surcharge (37 CFR 1.16(e)) for the late filing of the oath or declaration.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones
Senior Legal Advisor
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

Paper No. 2

Robert C. Nabinger
FISH & RICHARDSON
225 Franklin Street
Boston, Massachusetts 02110-2804

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DEC 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Douglas J. WOODNORTH et al. :
Application No. 09/378,324 :
Filed: August 20, 1999 :
Attorney Docket No. 8935-0035003 :

AND

DECISION ON PETITION

In re Application of :
Douglas J. WOODNORTH et al. :
Application No. 10/042,750 :
Filed: May 22, 2002 :
Attorney Docket No. 8935-0035004 :

This is a corrected decision on the petition filed May 22, 2002, under 37 CFR 1.137(b), in application serial number 09/378,324 to revive that application for purposes of continuity with a concurrently-filed continuing application.

The petition is **granted.**

The decision mailed July 26, 2002 indicated that application serial number 09/378,324 was again abandoned in favor of continuing application 10/042,722. However, the '722 application cannot be located despite repeated attempts to do so. At the request of this office, petitioner has provided a copy of the specification, claims, and drawings of the '722 application. Therefore, the '750 application, captioned above, is a reconstruction of 10/042,722 and bears a corresponding filing date of May 22, 2002. ***Petitioner is advised that all future correspondence should be directed to continuing application number 10/042,750.***

In the event that application serial number 10/042,722 is located, petitioner should file a paper before the Office of Petitions requesting that the file be merged with serial number 10/042,750 and that any fees paid in duplicate be refunded to petitioner.

The basic filing fee of $740 has been transferred to application serial number 10/042,750.

Application No. 09/378,324 is being returned to the Files Repository while Application No. 10/042,750 is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 4

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APR 2 5 2003

OFFICE OF PETITIONS

In re Application of :
Woodnorth, et al. :
Application No. 10/042,750 : ON PETITION
Filed: May 22, 2002 :
Attorney Docket No. 08935-035004 :

This is a decision on the styled, "Petition For Corrected Filing Receipt," filed March 18, 2003, which has been treated as a petition under 37 CFR 1.182.

The petition is **GRANTED**.

The filing receipt mailed January 21, 2003, indicates the priority information as provided by the Applicant as filed on May 22, 2002. Applicant now submits the correct priority information as follows:

> **-- THIS APPLICATION IS A CONTINUATION OF U.S. APPLICATION SERIAL NO. 09/378,324, FILED AUGUST 20, 1999, WHICH IS A CONTINUATION OF U.S. APPLICATION SERIAL NO. 09/054,928, FILED APRIL 3, 1998, ABANDONED, WHICH IS A CONTINUATION-IN-PART OF U.S. APPLICATION SERIAL NO. 09/001,822, FILED DECEMBER 31, 1997, ABANDONED. --**

The above priority information is confirmed by Patent Office records.

This application is being forwarded to the Office of Initial Patent Examination for issuance of the requested corrected filing receipt. Thereafter, the application will be returned to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 5

Loren G. Helmreich
Browning Bushman
5718 Westheimer Ste 1800
Houston TX 77057

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APR 25 2003

OFFICE OF PETITIONS

In re Application of
Burke et al.
Application No. 09/641,190
Filed: August 17, 2000
Attorney Docket No. SVEJKOVSKY-22

ON PETITION

In re Application of
Burke et al.
Application No. 10/042,753
Filed: July 23, 2002
For: SEASONING SYSTEM AND METHOD

This is a decision on the petition under 37 CFR § 1.182 submitted by facsimile transmission on December 4, 2002, requesting that the Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as application under 37 CFR § 1.53(b) and be accorded a filing date of July 23, 2002.

On March 14, 2002, the Office mailed a nonfinal Office action in application No. 09/641,190, which set a three (3) month shortened statutory period for reply. In response, on June 24, 2002 (certificate of mailing June 13, 2002), applicants filed an amendment. On July 23, 2002, applicants filed two (2) requests for a CPA under 37 CFR § 1.53(d), accompanied by application papers including a specification, claims, drawings, and a preliminary amendment, based on prior application No. 09/641,190.

On December 4, 2002, applicants filed the present petition, application papers, including a specification, claims, drawings, a preliminary amendment, and an authorization to charge the petition fee. Applicants explained that a CPA was filed in Application No. 09/641,190 on July 23, 2002. However, applicants intended to file a continuation application under 37 CFR § 1.53(b) rather than the CPA. Applicants requested that the CPA under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of July 23, 2002.

The petition is granted.

The application under 37 CFR § 1.53(b) filed on July 23, 2002, has been assigned application No. 10/042,753. The CPA request and the application papers have been removed from the file of application No. 09/641,190, and have been placed in application No. 10/042,753. Copies of the CPA request and the present petition will be retained in application No. 09/641,190 to complete the record therein. All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/042,753 not application No. 09/641,190.

The Office finance records will be corrected to show that the $740.00 filing fee and the $198.00 excess claim fees were paid in application No. 10/042,753, not in application No. 09/641,190. The $130.00 petition fee will be charged to Deposit Account No. 02-4345, as authorized in the petition.

As a result of the above decision, application No. 10/042,753 has been granted a filing date of July 23, 2002. However, Figures 17-19 of drawings described in the specification appears to have been omitted on July 23, 2002.

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

I. Should applicants contend that the figures were, in fact, deposited in the U.S. Patent and Trademark Office (USPTO) on July 23, 2002, a petition and the $130.00 petition fee (which will be refunded if it is determined that the figure was, in fact, received by the Office) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice.

II. Should applicants desire to supply the figures and accept the date the figures are filed in the Office as the filing date, the figures, a petition under 37 CFR 1.182 requesting that the filing date be corrected to correspond to the date the figures are filed in the Office and the $130.00 petition fee must be filed within **TWO MONTHS** of the date of this Notice.

The failure to file a petition and petition fee under options (I) or (II) above, within two months of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited on July 23, 2002. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).** In the absence of a timely petition, the application will maintain the filing date of July 23, 2002, and the original disclosure of the application will include only those papers present in the Office on that date.

In the event that applicants elects not to take action pursuant to options (I) or (II) above, an amendment of the specification to cancel all references to the figure is required. Such amendment should be by way of preliminary amendment submitted

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prior to the first Office action to avoid delays in the prosecution of the application. **Any response related to this Notice should be directed to:**

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application No. 09/641,190 will be forwarded to the Office of Patent Publications.

Application No. 10/042,753 will be forwarded to the Office of Initial Patent Examination to await any response to the "Notice Of Omitted Item(s)" and for further processing under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of July 23, 2002 (unless applicant selects Option II., above).

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No.

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Houston TX 77057

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APR 25 2003

OFFICE OF PETITIONS

In re Application of
Burke et al.
Application No. 09/641,190
Filed: August 17, 2000
Attorney Docket No. SVEJKOVSKY-22

In re Application of
Burke et al.
Application No. 10/042,754
Filed: July 23, 2002
Attorney Docket No. Svej 22-5
For: SEASONING SYSTEM AND METHOD

ON PETITION

This is a decision on the petition under 37 CFR § 1.182 submitted by facsimile transmission on December 5, 2002, requesting that the Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as application under 37 CFR § 1.53(b) and be accorded a filing date of July 23, 2002.

On March 14, 2002, the Office mailed a nonfinal Office action in application No. 09/641,190, which set a three (3) month shortened statutory period for reply. In response, on June 24, 2002 (certificate of mailing June 13, 2002), applicants filed an amendment. On July 23, 2002, applicants filed two (2) requests for a CPA under 37 CFR § 1.53(d), accompanied by application papers including a specification, claims, drawings, and a preliminary amendment, based on prior application No. 09/641,190.

On December 5, 2002, applicants filed the present petition, application papers, including a specification, claims, drawings, a preliminary amendment, and an authorization to charge the petition fee. Applicants explained that a CPA was filed in Application No. 09/641,190 on July 23, 2002. However, applicants intended to file a continuation application under 37 CFR § 1.53(b) rather than the CPA. Applicants requested that the CPA under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of July 23, 2002.

The petition is granted.

The application under 37 CFR § 1.53(b) filed on July 23, 2002, has been assigned application No. 10/042,754. The CPA request and the application papers have been removed from the file of application No. 09/641,190, and have been placed in application No. 10/042,754. Copies of the CPA request and the present petition will be retained in application No. 09/641,190 to complete the record therein. All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/042,754 not application No. 09/641,190.

The Office finance records will be corrected to show that the $740.00 filing fee was paid in application No. 10/042,754, not in application No. 09/641,190. The $130.00 petition fee will be charged to Deposit Account No. 02-4445, as authorized in the petition.

As a result of the above decision, application No. 10/042,754 has been granted a filing date of July 23, 2002. However, Figures 17-19 of drawings described in the specification appears to have been omitted on July 23, 2002.

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

I. Should applicants contend that the figures were, in fact, deposited in the U.S. Patent and Trademark Office (USPTO) on July 23, 2002, a petition and the $130.00 petition fee (which will be refunded if it is determined that the figure was, in fact, received by the Office) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice.

II. Should applicants desire to supply the figures and accept the date the figures are filed in the Office as the filing date, the figures, a petition under 37 CFR 1.181 requesting that the filing date be corrected to correspond to the date the figures are filed in the Office and the $130.00 petition fee must be filed within **TWO MONTHS** of the date of this Notice.

The failure to file a petition and petition fee under options (I) or (II) above, within two months of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited on July 23, 2002. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) OR (b).** In the absence of a timely petition, the application will maintain the filing date of July 23, 2002, and the original disclosure of the application will include only those papers present in the Office on that date.

In the event that applicants elects not to take action pursuant to options (I) or (II) above, an amendment of the specification to cancel all references to the figure is required. Such amendment should be by way of preliminary amendment submitted

prior to the first Office action to avoid delays in the prosecution of the application. **Any response related to this Notice should be directed to:**

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application No. 09/641,190 will be forwarded to the Office of Patent Publications.

Application No. 10/042,754 will be forwarded to the Office of Initial Patent Examination to await any response to the "Notice Of Omitted Item(s)" and for further processing under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of July 23, 2002 (unless applicant selects Option II., above).

Application No. 09/641,190 will be forwarded to the Office of Patent Publications.

Application No. 10/042,754 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of July 23, 2002, using the application papers submitted on that date.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

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Paper No. 3

THOMAS J. PERKOWSKI, ESQ., PC
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD, CT 06902

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MAR 17 2003

OFFICE OF PETITIONS

In re Application of	:	
Schmidt et al.	:	DECISION GRANTING
Application No. 10/042,755	:	PETITION
Filed: November 13, 2002	:	
Attorney Docket No. 108-181USA000	:	

This is a decision on the petition under 37 CFR 1.10(e), filed January 17, 2003, requesting that the above-identified application be accepted and accorded a filing date of November 13, 2002.

The petition is **GRANTED**.

Applicants request the acceptance of the application with the filing date of November 13, 2002, on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EL906152865US) on November 13, 2002, pursuant to the requirements of 37 CFR 1.10, and that the submission was not received by the Patent and Trademark Office.

In support, the petition is accompanied by a copy of the Express Mail mailing label, receipt no.EL906152865US, indicating a "date-in" of November 13, 2002. The same Express Mail receipt number was referred to in the copy of the transmittal letter submitted with the instant petition. Also, Petitioner has submitted a copy of a return-receipt postcard indicating receipt in the Office of Patent Cooperation Treaty ("PCT") the above-identified application.

The Office considers the date the correspondence is shown to have been deposited as "Express Mail" to be the "date-in" on the label. *See* MPEP §513. The date indicated on Express Mail mailing label verifies that the mailed. In view of the above, the evidence

11/13/02

is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 13, 2002. Accordingly, the application is accepted as filed on November 13, 2002.

Since the instant petition has been granted, no petition fee is necessary and the $130.00 petition fee will be credited to petitioner's deposit account.

The application is being forwarded to Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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50TH FLOOR
NEW YORK, NY 10020

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MAR 27 2003

OFFICE OF PETITIONS

In re Application of :
Handreck, et al. : DECISION GRANTING
Application No. 10/042,756 : PETITION
Filed: November 6, 2002 :
Attorney Docket No. FAULDING/001 CON :

This is a decision on the petition filed January 17, 2003, requesting that the continuing application under 37 CFR 1.53(b) of Gregory Paul Handreck et al., entitled "PAMIDRONATE SOLUTION" (attorney docket No. FAULDING/001 CON) be accorded a filing date of November 6, 2002 and assigned an application number.

The papers filed on January 17, 2003, included a copy of a postcard receipt bearing docket No. "FAULDING/001 CON" and acknowledging the filing in the Office on November 6, 2002, of a continuing application under 37 CFR 1.53(b) containing 12 pages of application, 10 pages of claims and a 3 pages of declaration. The November 6, 2002 filing was also accompanied by a copy of the prior application, 09/773,480, as shown by counsel's files.

The original papers identified on the postcard receipt cannot be located in the Office. However, in view of the evidence presented, it is concluded that the continuing application was filed in the Office on November 6, 2002, and later misplaced.

The petition to accord the continuing application a filing date of November 6, 2002, is granted. No petition fee is required. Application no. 10/042,756 has been assigned to the file.

Since the original application papers cannot be located in the Office, the duplicate papers received January 17, 2003, will be used for examination purposes.

Applicants should notify this office if the original papers are subsequently discovered in the Office so that the present

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duplicate file can be merged with the original papers and any duplicate filing fee refunded. Please refer to application no. 10/042,756 in all future correspondence.

The application will be forwarded to the Office of Initial Patent Examination for further processing. Additionally, the filing fee will be charged and a filing receipt will be issued.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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Paper No. 4

Robert W. Becker & Associates
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Suite B
Tijeras, NM 87059

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AUG 15 2003

OFFICE OF PETITIONS

In re Application of :
Lorenzo Torres :
Application No. 09/885,563 :
Filed: June 19, 2001 :
Attorney Docket No. NMTECH9 :
:
: DECISION GRANTING
: PETITION
:
In re Application of :
Lorenzo Torres :
Application No. 10/042,757 :
Filed: September 20, 2002 :
For: Method of Providing an Essential :
Oil Extract of Capsicum and the :
Extract :

This is a decision on petition under 37 CFR § 1.53(e), filed June 23, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of September 20, 2002.

On August 20, 2002, a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed in application No. 09/885,563, which set a three (3) month statutory period for reply. In response, on September 9, 2002, applicant paid the issue fee and publication fee. On September 20, 2002, applicant submitted a

request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/885,563 and paid the statutory basic filing fee of $370.00. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000. Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On October 15, 2002, prior application No. 09/885,563, issued as U.S. Patent No. 6,465,022. Thereafter, on June 23, 2003, applicant filed the present petition under 37 CFR § 1.53(e) by facsimile transmission. Applicant indicated that the divisional application filed on September 20, 2002, was inadvertently submitted under 37 CFR § 1.53(d). Applicant requested that the improper CPA be converted to an application under 37 CFR § 1.53(b).

The petition is granted.

The application under 37 CFR § 1.53(b) has been assigned application No. 10/042,757. The CPA request, a preliminary amendment, and the copy of the application papers as originally filed have been removed from the file of application No. 09/885,563 and have been placed in application No. 10/042,757. A copy of the CPA request and a copy of the present petition will be retained in application No. 09/885,563 to complete the record therein.

All further correspondence concerning the application under 37 CFR § 1.53(b) should be directed to application No. 10/042,757 not application No. 09/885,563.

The Office finance records will be corrected to show that applicant paid the $370.00 basic filing fee in application No. 10/042,757, not in application No. 09/885,563. The $130.00 petition fee will be charged in application No. 10/042,757 to counsel's Deposit Account, No. 02-1653.

Applicant is advised that 37 CFR § 1.78 requires that any nonprovisional application claiming benefit of one or more prior-filed copending nonprovisional applications contain or be amended to contain a reference to each such prior-filed application, identifying it by application number and indicating the relationship of the applications (i.e., continuation, divisional, or continuation-in-part). This reference must be included in an application data sheet (37 CFR § 1.76) or the specification must contain or be amended to contain such reference in the first sentence following the title. See 37 CFR § 1.78(a)(2). Accordingly, a preliminary amendment to the specification to add the required reference, in compliance with 37 CFR § 1.121, or an application data sheet including the required reference should be promptly filed.

Application No. 09/885,563 will be forwarded to Files Repository.

Application No. 10/042,757 will be forwarded to the Office of Initial Patent Examination for processing as a divisional application of application No. 09/885,563 filed under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with a filing date of September 20, 2002, using the copy of the original application papers submitted on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (703) 306-5589.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

CTD

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WASHINGTON, D.C. 20231
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Paper No. 4

JAMES L. JACKSON, ESQ.
ANDREWS & KURTH
600 TRAVIS
SUITE 4200
HOUSTON TX 77002-2778

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OFFICE OF PETITIONS

In re Application of
David A. Baucom
Application No. 09/544,775
Filed: April 7, 2000
Attorney Docket No. BAM001/134920

DECISION GRANTING PETITION

In re Application of
David A. Baucom
Application No. 10/042,758
Filed: October 1, 2002
For: Lift and Movement System for Shelving

This is a decision on petition under 37 CFR § 1.53(e), filed July 8, 2003, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of October 1, 2002.

On February 4, 2002, a Notice of Allowance and Issue Fee Due and a Notice of Allowability were mailed in application No. 09/544,775, which set a three (3) month statutory period for reply. In response, on May 6, 2002, applicants paid the issue fee but failed to submit corrected drawings. On June 21, 2002, the Office mailed a Notice of Abandonment, stating that applicants failed to file timely drawings as required in the Notice of Allowability. On July 16, 2002, applicants filed a petition to revive under 37 CFR § 1.137(b) and new drawings. The application was revived by the decision of August 30, 2002. Thereafter, on October 1, 2002, applicants submitted a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/544,775.

A CPA must be filed before the payment of the issue fee in the prior application. See 37 CFR § 1.53(d)(1)(ii)(A). Since the issue fee was paid before the CPA request was filed, the CPA is improper. It is noted that the CPA request was filed on October 1, 2002, while the prior application was pending, and was accompanied by a specification and drawings. Applicants state they inadvertently filed the CPA on October 1, 2002, instead of a divisional application under 37 CFR § 1.53(b). Applicants requests that the Office treat the CPA as an application under 37 CFR § 1.53(b) and accord the application a filing date of October 1, 2002.

Accordingly, the petition is granted.

The continuation application under 37 CFR § 1.53(b) filed on October 1, 2002, has been assigned application No. 10/042,758. The CPA request and the application papers have been removed from the file of application No. 09/544,775 and have been placed in application No. 10/042,758. Copies of the CPA request and the present petition will be retained in application No. 09/544,775 to complete the record therein. All further correspondence concerning the continuation application under 37 CFR § 1.53(b) should be directed to application No. 10/042,758, not application No. 09/544,775.

The Office finance records indicate that a $410.00 extension of time fee was paid in application No. 09/544,775 on March 11, 2003. This amount is unnecessary and will be refunded to Deposit Account No. 50-0897. Additionally, the $130.00 petition fee and the $375.00 basic filing fee will be charged in application No. 10/042,758 to Deposit Account No. 50-0897.

Application No. 10/042,758 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR § 1.53(b), not under 37 CFR § 1.53(d), with the filing date of October 1, 2002, using the application papers filed on that date.

Application No. 09/544,775 will be forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 2

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OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	
Application No. 10/042,762	:	DECISION GRANTING PETITION
Filed: 22 February, 2002	:	
Attorney Docket No. US020053	:	

This is a decision on the petition filed on 6 May, 2003 (certificate of mailing 30 April, 2003) which is treated as a petition filed under 37 CFR 1.10(e)[1], requesting that the above-identified application be accorded a filing date of 22 February, 2002.

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[1] 37 CFR 1.10(e) provides that:

> Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "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 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.

Petitioners allege that the application was deposited in "Express Mail" service with the U.S. Postal Service on 22 February, 2002. In support, petitioner provided a copy of the Express Mail label, receipt No. EV031697462US, showing a "Date-in" of 22 February, 2002. The same Express Mail receipt number was referred to on the itemized Utility Patent Application Transmittal sheet submitted with the present petition. Petitioner have provided a copy of 21 pages of specification and claims (including one (1) page of abstract), and six (6) sheets of drawings, a declaration in compliance with 37 CFR 1.63, an Information Disclosure Statement, and a Recordation Form Cover Sheet and assignment. Petitioners have also provided an itemized postcard receipt, bearing an "Office-date" stamp of 02/22/02, and identifying the application by docket number and invention title, itemizing the filing of, *inter alia*, 21 pages of specification, claims, and abstract, and six (6) sheets of drawings.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[2] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on 22 February, 2002.

The application will be processed with a filing date of 22 February, 2002, using the copies of the application papers supplied on 6 May, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of 22 February, 2002, using the application papers supplied with the present petition.

Telephone inquiries specific to this matter should be directed to the undersigned at 703 308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2]MPEP 513.

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Paper No. 4

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APR 2 5 2003

Technology Center 2600

In re Application of :
VANDENAMEELE-LEPLA, PATRICK :
Application No. 10/042,780 :
Filed: January 8, 2002 :
For: **METHOD AND APPARATUS FOR FREQUENCY-DOMAIN TRACKING OF RESIDUAL FREQUENCY AND CHANNEL ESTIMATION OFFSETS** :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on April 1, 2003.

From a review of the record, it appears that Townsend and Townsend and Crew, LLP, including Barmak Sani, the attorney who signed the request, was never of record in this application.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

Since the petition is dismissed, all future communications from the Office will continue to be directed to the address listed below until otherwise notified by applicant.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512